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The Power of Persuasion: Army PSYOP Control & Execution Entering the Third Wave

A Thesis
Presented To
The Judge Advocate General's School
United States Army

The opinions and conclusions expressed herein are those of the
author and do not necessarily represent the views of either
The Judge Advocate General's School, The United States Army,
or any other governmental agency.

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United States Army

44th Judge Advocate Graduate Course

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ABSTRACT

Information is creating a revolution in our society and
our military. Recognizing that conflict has its root in
ideology and perception affects this ideology, military units
that have the capability to modulate perceptions become
critical to successfully achieving national security goals.
Military Psychological Operations (PSYOP) units are the only
units that have this capability. Therefore, these units
should be used as a true strategic asset to achieve national
security objectives. To accomplish this successfully will
require changes in control and execution. Enhanced control
will make the routine use of military PSYOP more acceptable.
Accomplishing this requires two things. First, the United
States must formalize limits on the employment of PSYOP in
statute and policy. Second, it must vest control of all
information assets in the National Security Advisor. This
consolidated control will ensure effective execution through
proper integration with other activities supporting national
security objectives. Efficient and effective execution will
not be feasible, however, without force structure changes in
military PSYOP. First, the Army should form regionalized
PSYOP groups under each Regional CINC. Second, it should
collocate these assets with the CINCs under their operational
control. These changes in control and execution will help the
United States to properly leverage information power as the
Third Wave continues to change the world.

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THE POWER OF PERSUASION: ARMY PSYOP CONTROL & EXECUTION ENTERING THE THIRD WAVE

Major Maurice A. Lescault, Jr.[*]

I. Introduction

Information is revolutionizing American society. Access to information has steadily increased through radio, television, satellite, and computers. As the importance of information has grown in society, so it has grown in the military. This growing reliance on information is causing a revolution in the military itself. Succeeding in this revolution will require the optimal use of information assets. This thesis will examine the criticality of information to success in achieving national security objectives and proposes a strategic role for military PSYOP assets.

In section II, I define conflict between groups in terms of ideology. This ideology is necessarily informed by the perceptions of the group who holds it. This perspective underscores the critical nature of information because

information is the medium by which the U.S. can alter these perceptions. One premier asset that deals in the realm of information are Psychological Operations units.

Psychological Operations (PSYOP) suffer from the adverse connotations of their name.[1] In recent years, however, leaders have begun to recognize their utility in both war and operations other than war.[2] The explosion in information technology has served to increase the utility and potential of PSYOP. In section III, I review the current posture of PSYOP assets in the U.S. Army[3] and the

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[1] *See* Carnes Lord, *The Psychological Dimension in National Strategy, in* POLITICAL WARFARE AND PSYCHOLOGICAL OPERATIONS: RETHINKING THE US APPROACH 13, 22 (Frank R. Barnett & Carnes Lord eds., 1989)("Manifest or latent in the attitudes of many Americans toward the practice of psychological-political warfare is a distaste for any sort of psychological manipulation or deception."); Raymond J. Barrett, *PSYOP: What is it? And What Should We Do About It?*, MIL. REV., March 1972, at 57, 65 ("The relationship of psychological operations and freedom calls attention to another important dilemma. The concept of psychological operations has ominous overtones for a democracy. It smacks of brainwashing and thought control.").

[2] *See* General Wayne A. Downing, *Joint Special Operations in Peace and War*, JOINT FORCE QUARTERLY, Summer 1995, at 22, 26 (General Downing, at the time he wrote the Commander-in-Chief of the United States Special Operations Command, credits PSYOP programs with helping "to encourage 70-80 thousand enemy soldiers to desert, defect, and surrender, thereby saving countless lives on both sides." He goes on to say that "PSYOP has continued to be an important part of all major deployments.").

[3] While all of the military services play an important role in PSYOP, this paper will only focus on Army assets. The reasons are two-fold. First, the majority of assets that actually conduct the analysis and planning of the PSYOP campaign are in the Army. The other services focus mostly on delivery of the desired message or action. *See Air Force Details Information Warfare Mission Structure*, DEFENSE DAILY, Jan. 20, 1995, *available in* LEXIS, NEWS Library, ASAPII File (Quoting Air Force Lieutenant General Joseph Ralston, Chief of Plans and Operations as saying "the Army possesses almost all the expertise for psychological operations, while the Air Force provides the aerial platforms to deliver the message, . . . "). Second, the argument that I make here can be
(Continued on Next Page)

doctrine and policies that control them. Current use of these assets is artificially limited. As the United States enters the Third Wave and becomes a more knowledge-based society, such limits are not only mistaken, but dangerous. In section IV, I argue for removing these limits and using military PSYOP as a true strategic asset to achieve national security goals.

Use of military PSYOP strategically raises several issues. I group these issues under the labels control and execution. To make the use of military PSYOP acceptable in American society requires effective control. Doing so will require legislative and executive action to formalize policies and limitations. Moreover, making control effective requires that the U.S. utilize all information assets under the strategic oversight of one executive department. In Section V, I address these issues of control and conclude arguing for strategic oversight by the National Security Advisor.

Finally, the need for effective execution dictates that the strategic use of military PSYOP be feasible. This requires additional PSYOP assets in the active component and a more effective placement of these assets relative to the Regional Combatant Commanders. Section VI addresses these issues.

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generalized for the other services. Adding interservice roles and differences will only serve to confuse rather than clarify my argument.

The proposals in this thesis seek to ensure effective execution of information strategy, while maintaining firm controls. Doing so will empower the United States to continually improve our efficiency at achieving national security objectives by leveraging information technology. As the nation enters the Third Wave, effectively and efficiently using information power, with the support of our people engendered by effective controls, will enable us to maintain our position as a secure superpower.

II.   The Information Explosion

Times have changed -- and are changing. Futurists have been wrestling with and offering answers to how these changes will affect society in general, and the military in particular. The one uniform aspect of these futurist theories is the driving force of the change -- information. Technology has placed the world's advanced societies on a spiraling mountain of information. The world is more interconnected; individuals can contact each other more quickly and can share information, products, and ideas with the touch of a button.[4] Television screens take people to

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[4] This fact and the problems it creates was recognized relatively early in the computer revolution. *See* Anne W. Branscomb, *Global Governance of Global Networks: A Survey of Transborder Data Flow in Transition*, 36 VAND. L. REV. 985 (1983). Of course, the amount of information flow and the type of transactions have increased in scope and intensity with the advent of the Internet. *See, e.g., Online Transactions To Double By 1997 -- Leading-Edge Web Sites Outgrow The "Dead Web"*, ELECTRONIC BUYERS' NEWS, March 4, 1996, at 58 (discussing the current trend of companies conducting actual business transactions over the Internet).

places that many will never set foot in[5] and devices miles

above the ground can not only tell people where they are,

but can see what they are doing.[6] These changes have far

reaching implications for both the nation and its military.

But some things have not changed. The end of the Cold

War brought hopes of a "New World Order"[7] as the end of

World War II and the rise of the United Nations had brought

hopes of saving preceding generations from the scourge of

war.[8] Just as the United Nations has not fulfilled this

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[5] This phenomenon perhaps began during Vietnam when the war was brought
into the American living room every evening. Since then, television has
been credited not only with taking us to distant lands, but with shaping
national policy. *See, e.g.*, Joe Urschel, *Caution: Don't base policy on
emotions*, USA TODAY, February 10, 1994, at 10A. From the military
perspective, high level officials have posited that "We don't win unless
CNN says we win." Lieutenant General H. Hugh Shelton & Lieutenant
Colonel Timothy D. Vane, *Winning the Information War in Haiti*, MIL.
REV., Nov.-Dec. 1995, at 3. Additionally, media affects are accounted
for in our doctrine. DEP'T OF ARMY, FIELD MANUAL 100-5, OPERATIONS 1-3 (14
June 1993) [hereinafter FM 100-5] ("In the age of instant communication,
capabilities available to the media have had increasingly important
impacts on military operations. . . . Dramatic visual presentations can
rapidly influence public--and therefore political--opinion . . . .
Strategic direction and, therefore, the range of operations and their
duration, may be dramatically affected.").

[6] *See, e.g.*, Douglas L. Anderson, *A Military Look into Space: The
Ultimate High Ground*, ARMY LAW., Nov. 1995, at 19, 20-22 (detailing the
many uses of satellites in current military operations including
navigation and early warning); Cynthia M. Hayward, *Remote Sensing:
Terrestrial Laws For Celestial Activities*, 8 B.U. INT'L L.J. 157, 157-58
(1990)(discussing the rise of remote sensing, particularly to track such
things as natural resources).

[7] George W. Bush, Address Before a Joint Session of Congress on the
Persian Gulf Crisis and the Federal Budget Deficit (September 11, 1990),
in 26 WEEKLY COMP. PRES. DOC., at 1358, *available in* LEXIS, Exec Library,
Presdc File.

[8] The preamble to the United Nations Charter provides that "WE THE
PEOPLES OF THE UNITED NATIONS DETERMINED to save succeeding generations
from the scourge of war, which twice in our lifetime has brought untold
(Continued on Next Page)

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ultimate hope for it,[9] the end of the Cold War has not ended

conflict. Today, as in the past, conflict plagues

mankind.[10] These conflicts may or may not be called "wars,"

but they represent challenges to U.S. national interests and

potential drains on its scarce resources. Situations like

those in the Balkans, Sudan, and Rwanda are continual

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sorrow to mankind, ..." U.N. CHARTER preamble [hereinafter U.N. CHARTER], *reprinted in* DEP'T OF ARMY, PAMPHLET 27-24, SELECTED INTERNATIONAL AGREEMENTS VOLUME II 3-1 (1 Dec. 1976) [hereinafter DA PAM. 27-24].

[9] According to two of the most influential futurists, "in the 2,340 weeks that passed between 1945 and 1990, the earth enjoyed a grand total of only three that were truly war-free." ALVIN & HEIDI TOFFLER, WAR AND ANTI-WAR: SURVIVAL AT THE DAWN OF THE 21ST CENTURY 14 (1993).

[10] *See* Dr. Roger Williamson, *The Contemporary Face of Conflict - Class, Colour, Culture and Confession,* JANE'S INTELLIGENCE REV. - Y.B., Dec. 31, 1994, at 8. Dr. Williamson reports that the following number of major conflicts occurred or continued in the year indicated:

1987	36
1988	33
1989	32
1990	31
1991	29
1992	29
1993	28
1994	28

Dr. Williamson's criteria for "major conflict" is one where more than 1000 deaths, both combatant and noncombatant, have occurred since the beginning of the conflict. The areas of conflict for 1994 were:

Europe: Azerbaijan, Bosnia and Herzegovina, Croatia, Georgia, United Kingdom (Northern Ireland)

Middle East: Iran, Iraq, Israel/Palestine, Turkey, Yemen

Asia: Afghanistan, Cambodia, India, Myanmar, Philippines, Sri Lanka, Tajikistan

Africa: Algeria, Angola, Liberia, Rwanda, Somalia, South Africa, Sudan

Central and South America: Colombia, Guatemala, Peru

reminders of this fact. History continues to prove the wisdom of Plato's axiom that only the dead have seen the end of war. In this section, I will examine the spectrum of "conflict" that continues to face the world and define its source in terms of ideology. I will then discuss how perception affects this ideology and how change, driven by information technology, is creating a Revolution in Military Affairs.[11] This revolution must change the conception of which "weapons" in the U.S. arsenal are the most powerful and provide the most utility for its defense dollar.[12]

A. The Changing Nature of Military Operations

What America expects of its Army has changed. With the loss of the global threat from the Soviet Union, the nation has begun to focus on other utilities for military units.[13] Life for the Army during the Cold War was simpler. To

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[11] It has become fashionable to analyze military history in terms of revolutions in military affairs. This term defies precise definition, but it describes what is essentially a fundamental change in the nature of warfare. James R. Fitzsimonds & Jan M. Van Tol, *Revolutions in Military Affairs*, JOINT FORCE Q., Spring 1994, at 24. I will discuss this concept more fully in section II.C., *infra*.

[12] According to two scholars writing on the topic of war, "[a]rms are the tools of war -- but not necessarily the most powerful. Words, ideas, and reputations, may be even more powerful." PAUL SEABURY & ANGELO CODEVILLA, WAR: ENDS AND MEANS 160 (1989).

[13] Of course, throughout its history, the Army has been involved at some level in operations other than war as it participated in the building of the nation. *See* FM 100-5, *supra* note 5, at 13-0. However, a more pure defense mission had evolved earlier in this century. That perspective has now changed and operations other than war are increasing in frequency and complexity.

accomplish its mission to fight and win our nation's wars, the Army could focus on containment of communism and deterring war with our most serious adversaries.[14] This view of Army operations saw two states - war and peace -- with war as a contest between nation-states.[15] Avoiding war and maintaining peace were the goals. While the Army's primary mission remains the same, the end of the Cold War changes what it plans for and does most often. The Army's perspective, by necessity, has changed.

1. The Range of Operations

The Army's current operational doctrine sees a "range of operations" varying with the "state of the

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[14] During the Cold War, the military focus was solely on containment of the Soviets and deterrence of war with them. *See* Lieutenant Colonel Kevin Winters, *The 1994 United States National Security Strategy*, ARMY LAW., Jan. 1995, at 60 ("[U]ntil 1990[,] the United States undertook *de facto* and *de jure* military strategies to contain the Soviet threat. . . . Understandably, the United States strategy, plans, and budget myopically focused on countering and staying the course against the single most serious threat to United States security -- Soviet (and Chinese) expansionism."). For a discussion of the various theories that this strategy took, *see* RICHARD A. PRESTON & SYDNEY F. WISE, MEN IN ARMS 355-69 (4th ed., 1979).

[15] This view of the Army's role was shared by scholars. The classic statement of this view, which is still relied upon, at least as a basis for discussion, is that made by L. Oppenheim. In his treatise on international law, he stated that, "[w]ar is a contention between two or more states through their armed forces, for the purpose of overpowering each other and imposing such conditions of peace as the victor pleases." YORAM DINSTEIN, WAR, AGGRESSION AND SELF DEFENCE 8 (1988), *quoting* L. OPPENHEIM, 2 INTERNATIONAL LAW 202 (7th Ed., 1952). Interestingly, although Professor Dinstein goes on to modify portions of this definition, he accepts as true and correct that "war" is properly defined as being only between states and explicitly excludes intra-state wars from his discussion. *Id.* at 9-10.

environment."[16] The three states it anticipates are war,

conflict, and peacetime.[17] In Field Manual (FM) 100-5,

peacetime is defined as a period where "the US attempts to

influence world events through those actions that routinely

occur between nations."[18] Conflict is the conduct of

"hostilities to secure strategic objectives."[19] War, on the

other hand, is "the use of force in combat operations

against an armed enemy."[20]

In each of these environments, the objective is

different. In peace, the Army promotes peace. In conflict,

it seeks to deter war and resolve conflict. In war, the

Army fights and wins.[21] The doctrine views a continuum of

operations with noncombat operations spanning portions of

all three environments and combat operations spanning

portions of the conflict and war environments.[22] "Combat"

operations may occur during operations other than war, just

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[16] FM 100-5, *supra* note 5, at 2-0 - 2-1.

[17] *Id.*

[18] *Id.*

[19] *Id.*

[20] *Id.*

[21] *Id.*

[22] *Id.* at 2-1, Figure 2-1. This figure provides a graphic presentation
of the doctrine outlined in the text. This diagram makes it clear that
the states of the environment and military operations are really on a
"continuum".

as noncombat operations occur during war.[23] Whether the

Army considers the operation "war" or not is strictly based

on the state of the environment. All operations in the

peacetime and conflict states are "operations other than

war" regardless of whether they require combat.[24] From the

perspective of the conduct of actual operations, it is

obvious that the three states are not truly distinct. For

example, in the recent operations in Somalia, we conducted

what was labeled as humanitarian/civic assistance (HCA).[25]

HCA is one of thirteen Operations Other Than War listed in

FM 100-5.[26] However, much of this operation had the clear

feel of conflict with "technicals" mounted with automatic

weapons prowling the streets.[27] At points, it also erupted

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[23] *Id.*

[24] *Id.* at 2-0.

[25] A writer in *The New Republic* quoted President George Bush as saying, "[o]ur mission has a limited objective to open the supply routes, to get the food moving, and to prepare the way for a U.N. peacekeeping force to keep it moving . . . ." Fred Barnes, *White House Watch -- Operation Restore Hope*, THE NEW REPUBLIC, Dec. 28, 1992, at 11. Another writer categorically stated that the President had decided to send troops to Somalia "purely on humanitarian grounds." Russell Watson et al., *Troops to Somalia*, NEWSWEEK, Dec. 7, 1992, at 24.

[26] The others are noncombatant evacuation operations, arms control, support to domestic civil authorities, security assistance, nation assistance, support to counterdrug operations, combating terrorism, peacekeeping operations, peace enforcement, show of force, support for insurgencies and counterinsurgencies, and attacks and raids. FM 100-5, *supra* note 5, at 13-0.

[27] A "technical" in Somali parlance were "souped-up jeeps mounted with cannons or heavy caliber machine guns." Jeffrey Bartholet, *Battlefields of the Food War*, NEWSWEEK, Dec. 14, 1992, at 36. *See also*, Bruce Wallace, *Letter from Somalia: A Land of Terror*, MACLEAN'S, Sep. 7, 1992, at 26. These vehicles and their operators were initially hired by
(Continued on Next Page)

into operations that were clearly combat, in an environment that felt like war.[28] Thus, it is most realistic to view these three distinct states of the environment as more of a continuum with hazy dividing lines between states and types of operations.

The doctrine does attempt to account for the artificial distinctions by cautioning commanders that all three states may exist in his strategic environment and that both types of operations (war and other than war) may be conducted in his area simultaneously.[29] Despite this, it has been criticized in two ways. First, the doctrine is overly rigid by defining three distinct states of the environment when the real world tends to blur these distinctions.[30] The

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relief workers for protection from other roving bands in a sort of extorted security. Bartholet, *supra* at 36; Wallace, *supra* at 26. These "technicals" later became "the enemy" in operations that clearly resembled combat. In one of the largest, forty Somalis were killed near Kismayu. Robert Weil, *Somalia in Perspective: When the Saints Go Marching In*, MONTHLY REV., Mar. 1993, at 1.

[28] The most famous incident hastened the withdrawal of troops. In an operation to capture warlord Mohammed Farrah Aidid, an Army helicopter was downed. The crash and resultant rescue operation involved the U.S. Troops in "the longest sustained fire fight American soldiers have endured since the Vietnam War." Kevin Fadarko, *Amid Disaster, Amazing Valor*, TIME, Feb. 28, 1994, at 46. The result was 18 American deaths and more than 75 wounded. *Id.* Two soldiers were recommended for (and later received) the Congressional Medal of Honor. *Id.*

[29] FM 100-5, *supra* note 5, at 2-1, Fig. 2-1.

[30] Robert J. Bunker, *Rethinking OOTW*, MIL. REV., Nov.-Dec. 1995, at 34, 37. Professor Bunker actually presents both of the criticisms in his article. Specifically with regard to the inability to define distinct states of the environment, he argues that "a conflict environmental state for OOTW is actually a non-Western war environmental state . . . ." *Id.*

second is that the doctrinal concept maintains a
Clausewitzian nation-state view of the world and fails to
recognize the unconventional challenges we often face.[31]

It is beyond the scope of this paper to argue a
particular view in this debate. Moreover, the Army is in
the midst of updating FM 100-5 as it transitions to Force
XXI.[32] The new version of the manual will attempt to better
account for the changes being wrought by information.[33]
Besides, a fair reading of current Army doctrine
demonstrates at least some recognition that Army operations
are on a continuum, despite the fact that it defines three
distinct "states of the environment." Additionally, the

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[31] *Id.* at 36-37. Professor Bunker cites several scholars in support of
his position including MARTIN VAN CREVELD, THE TRANSFORMATION OF WAR (1991) and
ALVIN & HEIDI TOFFLER, *supra* note 9. In Professor Bunker's formulation,
the most serious consequence of this failure to recognize the non-
nation-state view is that it ignores situations where "a state of war
based on non-Western political conditions -- tribal and religious
dominance or conflict between subnational and local groups--already
exists. . . . Embracing the OOTW concept thus concedes the political
and military initiative to the opponent, who is thereby initially
permitted to conduct non-Western military operations against US forces."
Id. at 37. Professor Bunker goes on to argue for two "politico-
military" models, one for non-Western areas and the other, essentially
the current Clausewitzian model, for operations in industrialized
western areas. *Id.* at 39-41.

[32] "Force XXI" refers to the vision, begun by former Army Chief of Staff
Gordon R. Sullivan, for the power projection Army of the 21st Century.
See General Gordon R. Sullivan & Colonel James M. Dubik, *War in the
Information Age*, MIL. REV., Apr. 1994, at 46, 54 & Fig. 2.

[33] *See id.* at 59 ("The next edition of US Army Field Manual (FM) 100-5,
Operations, will capture the variety of the information age, describe
the seductively flawed distinction between war and operations other than
war and flesh out the principles governing the conduct of warfare in the
information age.").

Army DOES recognize that "conflict" can come from a variety

of sources.[34] However, the Army leadership continues to

miss the real power of the information revolution, even as

it incorporates information into FM 100-5. The focus

remains on the destruction of things rather than directly

aiming at our true target -- the enemy's will.[35] The

objective of defeating the will is a unifying concept that

obviates the debate over definitions of states of the

environment, nature of the enemy, and the continuum of

conflict. To develop this concept, I will briefly look at

the source of conflict.

2. *Why Do People Fight Anyway?*

This question has occupied many great minds and I

cannot satisfactorily resolve it within the constraints of

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[34] The Army leadership recognizes this. *See id.* at 54 (discussing the
fact that "[n]ation-states do not have a monopoly on warmaking . . .
."). This is also at least fairly implied throughout the current FM
100-5. For example, in the doctrinal discussion of operations other
than war, the Army highlights security. "The presence of US forces in
nations around the world may provoke a wide range of responses by
factions, groups or forces of an unfriendly nation. . . . [Commanders]
must be ready to counter activity that might bring harm to their units
or jeopardize their mission." FM 100-5, *supra* note 5, at 13-4.

[35] *See* Sullivan & Dubik, *supra* note 32, at 56-62. General Sullivan, as
the Army's Chief of Staff, outlined his vision for information in Force
XXI. He discussed the uses of information to increase intelligence,
improve targeting accuracy from great distances, "see" the battlefield,
know our positioning better, and improve command and control platforms.
He discussed "smart" tanks, and artillery -- in short, he discussed lots
of "things." Nowhere does he mention the actual use of information
itself against the opposition. The leadership focus seems to be solely
on the fact that information makes our things work better. We need to
get beyond that to see how information itself can be used DIRECTLY
against the enemy.

this paper. However, like the others, I have a view of why people fight. This view necessarily informs the recommendations for which I will argue momentarily. Consequently, it is only fair that I disclose this view.

The classic treatise about war is Carl von Clausewitz's *On War*.[36] Much of his work is spent on the practical aspects of warfare and some aspects of his discussion are tied to the times in which he lived and fought. But some of his insight is timeless. Clausewitz's fundamental premise is that war is simply "political intercourse, carried on by other means."[37] The corollary is that "[m]ilitary activity is never directed against material force alone; it is always aimed simultaneously at the moral forces which give it life, and the two cannot be separated."[38] Thus, "the war . . . cannot be considered to have ended so long as the enemy's *will* has not been broken . . . ."[39] This is so because war is merely "an act of force to compel the enemy to do our will."[40] In short, a group overcomes the enemy's will and supplants that will with their own.

Some criticize this view claiming that, since it only envisions war as a struggle among nation-states, the

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[36] CARL VON CLAUSEWITZ, ON WAR (Michael Howard & Peter Paret eds., 1976).

[37] *Id.* at 87.

[38] *Id.* at 137.

[39] *Id.* at 90

[40] *Id.* at 75.

observations are limited to warfare that is a clash between organized governmental entities.[41] Thus, the critics argue, this view of warfare is limiting, because it does not allow us to envision the more prevalent conflicts that we will see -- tribal warfare, conflicts between religious factions, etc.[42] In sum, we most often see *intra*state violence, not *inter*state.[43]

This criticism, however, takes an overly restrictive view of what constitutes politics, and what provides the basis for a group's willingness to fight. Webster defines politics as "competition between competing interest groups or individuals for power and leadership in a government or other group . . . the total complex of relations between men in society."[44] In this broader conception of politics,

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[41] *See* JOHN KEEGAN, A HISTORY OF WARFARE 3 (1994) ("Clausewitz's thought is incomplete. It implies the existence of states, of state interests and of rational calculation about how to achieve them. Yet war antedates the state, diplomacy, and strategy by many millennia."); Bunker, *supra* note 30, at 36; VAN CREVELD, *supra* note 31. Professor van Creveld labels Clausewitzian warfare as "trinitarian" and the non-nation-state warfare as "non-trinitarian." His argument is interesting because he posits that Clausewitz's conception was wrong when made and that what we see today is not a change to some new form of warfare, but a return to what warfare has always been. Professor van Creveld cites numerous examples from history where warfare was "low intensity" or "other than war" as we now conceive of it. In van Creveld's view, it is Clausewitz's view that is the anomaly and the true nature of warfare is simply reasserting itself.

[42] Bunker, *supra* note 30, at 37.

[43] Williamson, *supra* note 10, at 8. Dr. Williamson cites the "1994 report from the UN Human Development Programme (UNDP)" which stated that "of the 82 armed conflicts counted between 1989 and 1992, only three were between states; the rest were internal." *Id.*

[44] WEBSTER'S NEW COLLEGIATE DICTIONARY 883 (1980).

there is room for consideration of intrastate, as well as interstate, struggles for control and for the struggles between groups not related to a state at all. My purpose here is not to defend a Clausewitzian view of the world. But, the logic of his premise remains valid -- war is about politics.

It is more accurate, though, to take this one step further in making the link between politics and will. In a generic sense of the word, politics are about ideology. Ideology is defined as "a systematic body of concepts especially about human life or culture . . . a manner or the content of thinking characteristic of an individual, group, or culture . . . the integrated assertions, theories, aims that constitute a sociopolitical program."[45] Thus, politics are a reflection of an ideology -- a particular view of a group or culture and how it lives and relates to other groups or cultures. The range of things covered in an ideology is as broad as human lives: what type of organization will govern the group (if any); who are the group's leaders and how are they chosen; what territory does and should the group occupy; what god does the group worship; what ethnic background is the group; what is its position relative to other groups; and how have other groups treated the group in the past. Regardless of the subject matter, the building block of conflict is a disagreement

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[45] *Id*. at 563.

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over one or more elements of the ideology of two or more groups.[46] The degree to which the group reveres the ideology determines what they are willing to sacrifice to impose it on others or defend it against others. This in turn determines the amount of will they have for the fight and, from the opponent's perspective, the amount of will to overcome to win. The U.S. cannot understand the dangers or potential outcomes of any operation, be it war or other than war, if it does not understand the ideologies involved in the area.

A few historical examples will serve to illustrate this point. World War II shows ideology in the context of the nation-state. Vietnam demonstrates the advantage when one party is committed to their ideology and the other is not. The third example is the recent situation in the Balkans, which shows how ideology fuels and explains conflict between groups that are not nation-states, at least in the classic sense.

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[46] *Cf*. QUINCY WRIGHT, A STUDY OF WAR 131-144 (1942). Professor Wright discusses a number of what he calls "drives" to war. These include food, sex, territory, adventure, self-preservation, domination, independence, and society. By society, Professor Wright means any social group, although he asserts that the political group is the most powerful. *Id*. at 142. Professor Wright also asserts that this social drive is most powerful "whenever the state is thought of not merely as a community and a population but also as an idea and a culture, the spreading of which is a blessing to those forced to receive it." *Id*. at 143. In other words, the most powerful drive to war is an ideology, particularly when another group "needs" that ideology because their's is different and, hence, wrong.

World War II is perhaps the classic struggle of differing ideologies.[47] On the one side was the ethnic ideology birthed in the mind of Adolf Hitler that the Aryan race was somehow superior to the rest of the ethnic groups in the world.[48] The argument went something like this. Since the Aryans were superior to the other ethnic groups, they could not and should not be limited to the territory Germany then possessed.[49] Additionally, they had a right to

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[47] Some have framed the struggle as one of good versus evil. For example, in the opinion of General Dwight D. Eisenhower, the war was a struggle where "as never before . . . the forces that stood for human good and men's rights were this time confronted by a completely evil conspiracy with which no compromise could be tolerated. Because only by the utter destruction of the Axis was a decent world possible, the war became for me a crusade in the traditional sense of that often misused word." DWIGHT D. EISENHOWER, CRUSADE IN EUROPE 157 (1948; Re-release, 1990). Of course, the difficulty with that description is that the treatment of citizens within some of the allied nations (Stalin in Russia, for example) could be considered evil.

[48] Indeed, Hitler's writing is replete with racism in the worst sense of that word. His view of the Aryan race is as the only redeeming people in mankind. For example, he writes that

> [a]ll human culture, all the results of art, science and technology that we see before us today, are almost exclusively the product of the Aryan. This very fact admits of the not unfounded inference that he alone was the founder of all higher humanity, therefore representing the prototype of all that we understand by the word "man."

WILLIAM L. SHIRER, THE RISE AND FALL OF THE THIRD REICH 86 (Simon & Schuster, New York, 1959), quoting ADOLF HITLER, MIEN KAMPF 290 (American ed., 1943).

[49] Hitler's aim was euphemistically called Lebensraum, meaning living space. To Hitler, this meant that the Reich "must hold unflinchingly to our aim . . . to secure for the German people the land and soil to which they are entitled . . . ." Id. at 82-83, quoting ADOLF HITLER, MIEN KAMPF 643, 646, & 652. (American ed., 1943)

rule over other races[50] and had only been repressed by their

failed leaders who accepted the punitive provisions of the

Treaty of Versailles.[51] Opposing this Nazi ideology were

those of the allied nations.[52] At least from the

perspective of the western allies, the ideology was based on

the democratic ideas that all peoples are equal; that these

peoples should be free to determine how they are organized

and governed; and that those who govern do so only with the

consent of the people.[53] While this ideological struggle

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[50] In Hitler's view, the existence of "lower human types" was a
precondition to the emergence of higher cultures. "Hence it is no
accident that the first cultures arose in places where the Aryan, in his
encounters with lower peoples, subjugated them and bent them to his will
. . . As long as he ruthlessly upheld the master attitude, not only did
he remain master, but also the preserver and increaser of culture." *Id.*
at 87, *quoting* HITLER, *supra* note 48, at 295-96. Thus, Hitler's view has
two tenets. First, other races are worthless compared to Aryans or, in
his words, "[a]ll who are not of good race in this world are chaff."
Id., *quoting* ADOLF HITLER, MIEN KAMPF 296 (American ed., 1943). Second,
the Aryans needed to rule over all others in order to continue the
increase of human culture.

[51] One of the main points fixed in Hitler's view of the world was that
"the Versailles Treaty was not only unfair but criminal." Raoul de
Roussy de Sales, *Comment* to ADOLF HITLER, MY NEW ORDER 3, 10 (R. de Roussy
de Sales ed., 1941). More importantly, the treaty had not resulted from
the defeat of the German Army, but by the fact that the army "had been
betrayed, stabbed in the back by Bolshevism, Jews, and the 'November
criminals' (the Weimar Republic)." *Id.*

[52] Of course, each group had peculiarities of ideology based on their
history, ethnic origins, religion, etc. For purposes of my discussion,
I will focus on the western democratic ideology with which we are most
familiar.

[53] Thomas Jefferson wrote, arguably, the most beautiful statement of
these ideas in our Declaration of Independence.

> We hold these truths to be self-evident, that all men are
> created equal; that they are endowed by their Creator with
> certain unalienable rights; that among these are life,
> liberty, and the pursuit of happiness, That to secure these

was not necessarily on the minds of the soldier in the foxhole who was struggling for his day to day survival, it was the fundamental struggle of the war.[54] The fact that the struggle is played out in physical terms -- numbers of soldiers and machines, territory and boundary lines, industrial capacity and output -- often distracts observers of war. But, the fact remains that the fuel for this immense conflict were differences in two fundamentally incompatible ideologies.

The conflict in Vietnam is significant as an example because it demonstrates the importance of being committed to an ideology in conflict. Most observers now accept Vietnam as a defeat for the United States. The interesting fact, however, is that America did not lose on the physical battlefield. It lost on the ideological battlefield because the North Vietnamese were committed to their ideological cause and America was not. North Vietnam fought a "'war . .

(Continued)

rights, governments are instituted among men, deriving their just powers from the consent of the governed; . . .

THE DECLARATION OF INDEPENDENCE para. 2 (U.S. 1776), reprinted in MORTIMER J. ADLER, WE HOLD THESE TRUTHS 165 (1987).

[54] Americans at the time were slow to recognize the real nature of the threat that faced them. But, historians have since recognized that what faced us "was no mere military threat," but a threat from "a new philosophy . . . which repudiated and warred on [our] way of life and [our] inherited values." ALLAN NEVINS & HENRY STEELE COMMAGER, A POCKET HISTORY OF THE UNITED STATES 428 (rev. ed., 1986). Thus, in the eye of history, World War II is "[t]he most titanic conflict in history, with the fate of democratic institutions in the balance, . . ." Id. at 434.

. against colonialism, [and] against hunger and ignorance. .

. . Many of us also believed we were fighting for the human

dignity of our people . . . a *national* and *democratic*

revolution . . . that would have insured free political and

cultural expression among the variety of ethnic groups,

religions, and regions -- and among the commonwealth of

individuals -- that make up the nation."[55] Thus, they were

fighting for an ideology that addressed the uniting of their

people (an ethnic idea), the end of colonial domination and

the establishment of a particular form of government (a

territorial/political idea), and the betterment of the

quality of life of their countrymen (an

economic/humanitarian idea). Consequently, the soldiers of

Ho Chi Minh's army fought to the death in abominable

conditions and won a war in which they rarely won a

battle.[56]

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[55] TRUONG NHU TANG, A VIETCONG MEMOIR 309-10 (1985). Of course, the
communists did not live up to this ideology. Thus, Tang's memoir is
dedicated to "my betrayed comrades, who believed they were sacrificing
themselves for a humane liberation of their people."

[56] *See* STANLEY KARNOW, VIETNAM: A HISTORY 17-18 (1984) (Discussing the
fanatical devotion of the North Vietnamese to their struggle, regardless
of cost.). The most striking example of the dichotomy between physical
and psychological victory is the Tet Offensive. Though the communists
were soundly defeated militarily, press reports and America's already
weakening stomach for the cost of the war turned "a devastating
Communist military defeat . . . into a 'psychological victory.'" *Id.* at
545. The attacks undercut President Johnson's already slumping approval
ratings. In the opinion of Mr. Karnow, "[t]he country's trust in his
authority had evaporated. His credibility -- the key to a president's
capacity to govern -- was gone." *Id.* at 546. The North Vietnamese lost
big physically, but won big ideologically.

The American perspective was not so noble. The U.S. government initially rallied its soldiers and citizens around an ideology that saw America as the leader of the world who would "pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, to assure the survival and the success of liberty."[57] Thus, the halt of communism, regardless of where it was spreading, became the goal. As the price, burden, and hardship increased, however, commitment to this ideology waned among the soldiers and, more importantly, the people.[58] It was difficult to see how the falling of the Vietnam "domino" would unleash a chain of events that would reach our doorstep.[59] Consequently, our citizenry lost their stomach for the war because the cost in lives and dollars exceeded their commitment to the manifest destiny ideology that caused our involvement in the first place. Without an

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[57] *Id.* at 14 (quoting President John F. Kennedy).

[58] *Id.* at 19-20. The American lack of commitment was summed up well by Bui Diem, former South Vietnamese Ambassador to the United States who said, "[t]he struggle for us was a matter of life or death. But, for the Americans, it was merely an unhappy chapter in their history, and they could turn the page. We were allied, yet we had different interests." *Id.* at 21.

[59] Here, I refer to the so-called "domino theory." This theory was recognized as early as 1949 and warned "that if Indochina fell to Communism, so would the other countries of Southeast Asia." *Id.* at 169. Thus, the countries would behave like the childhood game of dominoes where knocking the first domino over causes the toppling of the remaining dominoes in the line.

ideology, America lost the political will to stay the course

and lost a war in which it rarely lost a battle.[60]

With the fall of communism, we might suppose that the

great ideological debate is over -- that self-determination

has won out over tyranny. But, differing ideologies persist

and ideology is not just about government. The recently

ended struggle in the Balkans, for example, was about

ethnicity, religion, territory, and past wrongs -- all

ideological elements of the warring groups.[61] So deep is

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[60] STUART A. HERRINGTON, PEACE WITH HONOR? AN AMERICAN REPORTS ON VIETNAM 1973-1975 243 (1983). Herrington cites Colonel Harry G. Summers, a brigade commander in Vietnam, who later confronted one of his Vietcong counterparts and reminded him that the North Vietnamese had never defeated us on the battlefield. Colonel Summers recalls his response to be, "That may be so, but it is also irrelevant." *Id.*, *citing* HARRY G. SUMMERS, ON STRATEGY: A CRITICAL ANALYSIS OF THE VIETNAM WAR (1982).

[61] *See Blood and earth. Ethnic cleansing*, THE ECONOMIST, Sep. 23, 1995, at 16. This article discusses the ethnic and religious faultlines in Bosnia in the course of asking the question "whether multi-ethnic countries can ever be harmonious?" The authors opine that the current peace agreement in Bosnia merely reflects the completion of ethnic cleansing in the sense that it simply moves the different ethnic/religious groups to different areas so that they are no longer intermingled. They discuss several other historical examples of what they call "partition: cut up the earth, and apportion according to the blood." *Id.* The article is interesting in that it goes on to use the melting pot of America as an example of where this ethnic diversity has, to a large degree, worked. The authors theorize that the reason is the unifying belief "that being American means something in itself: something to do with freedom, self-reliance, the rule of law, democracy and fellow feeling." *Id.* Thus, the key to resolving conflict based on ethnic, religious, and territorial ideologies may be to find the "ideas that people value as they value blood and earth." *Id.* *See also*, Bruce Wallace, *Sarajevo's Ghosts*, MACLEAN'S, Jan. 22, 1996, at 24 (Reporting that ethnic and religious hatred still runs deep, even after "peace." Serbs in the suburbs of Sarajevo were leaving their homes, burning them as they went, and taking the dead bodies of their relatives rather than leave them behind under ethnically Bosnian, religiously Muslim control.).

the devotion to their ideology, that some view the peace as a simply a lull in the killing.[62] The use of the term "groups" in this conflict is intentional because it was based on the rupture of a single nation not a conflict between nation-states. After the breakup of Yugoslavia, the people began to align themselves not along nationalist boundaries, but along ethnic and religious lines. It is precisely because their ethnic and religious ideologies conflicted that the whole quagmire developed.

These examples, and myriad other conflicts that could be discussed, demonstrate that conflict can be seen, understood and described in ideological terms. It is this ideology and the degree of commitment to it that determines the amount of will a group will bring to a conflict. Thus, if one can target the ideology, one can undermine the will. The question becomes, how is this done?

3. The Power of Perception

By defining ideology in terms of the particular view of a group or culture and how it relates to other groups and

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[62] *See* Wallace, *supra* note 61, at 24 (Discussing the potential for renewed conflict between the Bosnians Muslims and Serbs. The Serbs feel that they won the war and should not be surrendering their homes to Bosnians. The Bosnians view the Serbs as evil war criminals who perpetrated violence against them as they sought to live in peace.). In other words, the peace agreement may have simply added fuel to a bomb that will explode when peacekeepers leave. The Serbs have reason to fight because they feel entitled to land the Bosnians control. The Bosnians feel justified in retaliating for wrongs done to them during the war.

cultures, it becomes axiomatic that such an ideology is fed
by that group's perceptions of the world and others. How
the group views itself; how it perceives its history, its
past treatment by another group, or its relative strength
all feeds into this ideology. Perception further factors
into the steps the group is willing to take to support its
ideology or impose that ideology on others. I call this
deliberative process an "ideological calculus." By that, I
mean the process by which a group evaluates all of the
factors that feed into their ideology, how that ideology
meshes with the groups that they potentially conflict with,
the measures they see as necessary to resolve the conflict,
and their chances of success at resolving the conflict in
their favor. The power of perception is that it can
influence all elements of this calculus, thereby influencing
whether a group will act or refrain from acting.

The current changes in technology are beginning to
highlight the importance of this power. By understanding a
group's ideology, one can better understand the calculus
that goes into their decisions and actions. This in turn
can help to determine actions that one can take to alter
that group's perceptions and thereby alter their actions and
undercut their will. Information technology gives those who
develop and use it a powerful means to "attack" these
perceptions.

4. *Spanning the Range of Operations*

The power of perception is the key to spanning the operational continuum because it attacks the source of the problem -- the will of the adversary and the ideology that underlies it -- rather than just the physical trappings of the group who holds that particular view. Regardless of how one defines the continuum or whether the group one is dealing with is a nation-state, terrorists, religious ideologues, ethnic tribalism, or something, heretofore, unanticipated, the utility of controlling perceptions is critical to our operations.[63] The current Army doctrine demonstrates this point.[64]

In the peacetime state of the environment, the Army's goal is promoting peace.[65] Operations included in this environment are disaster relief, counterdrug operations, and nation assistance.[66] Controlling perception does two things

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[63] *See* Grant T. Hammond, *Paradoxes of War*, JOINT FORCE Q., Spring 1994, at 7, 11 ("[T]he perceptions of would-be adversaries are just as important as the means by which they accomplish their ends. . . . Modulating perceptions is just as critical as acquiring [physical] capabilities: they should be mutually reinforcing."). Mr. Hammond's article is an excellent conceptual piece about the future of war -- moving from a purely physical struggle to a conception of war where we win "by convincing an adversary to concede, not by destroying him through taking his pieces from the board." *Id.* at 14. In this view, "[f]ocusing directly on an enemy's perceptions and will should be the target." *Id.* at 15.

[64] *See supra*, notes 13 - 34 and accompanying text, for a discussion of the current doctrine and some of its criticism.

[65] FM 100-5, *supra* note 5, at 2-1, Fig. 2-1.

[66] *Id.*

here. First, and foremost, it prevents an operation from moving on the continuum toward the more serious actions that the Army labels conflict. The groups within the area of peacetime operations must perceive that the Army is there to help them in order to avoid protests, mob violence, etc. For this to happen, the groups must understand what help the Army is offering and how it is being delivered. Groups in the area that may view their ideology as contrary to or threatened by the U.S. role must understand the nature of security precautions taken (particularly in volatile operations like counterdrug) so as to dissuade them from acting against U.S. forces. The second beneficial role of perception in peacetime is that it can support the success of the particular actions being undertaken. For example, delivering aid successfully may rely on causing those the Army is helping to perceive their need for help, the Army's ability to meet that need, and engendering the trust within the group to receive the help.

Perception helps similarly if we are in a the conflict state of the environment. In this environment, the Army establishes deterring war and resolving the conflict as its goal.[67] The operations included in this portion of the continuum are non-combatant evacuation operations (NEOs), peacekeeping, antiterrorism activities, support to

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[67] *Id.*

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insurgencies, and strikes and raids.[68] Modulating perception helps to keep the environment from moving on the continuum toward the range of activity the Army label "war" and helps us to move toward that part of the continuum it labels peacetime. In all of the operations in this category, the groups within the area of operations will be performing their ideological calculus to determine how they should respond to the U.S. presence. U.S. forces must cause these groups to perceive not only that any action against the U.S. would be futile and disastrous, but that actions in support of U.S. operations are in their best interest. Also similar to the peacetime state, the very success of the operation can also depend on controlling perception. For example, in an antiterrorist action, terrorists must perceive that the U.S. is resolved to oppose them, that future action on their part will be met with disaster, and that their use of terrorism to pursue their goals will not work. If the U.S. forces do not convince them of this, they may gain some solace from retaliating, but they will not gain the security of deterring.

Finally, in war, perception helps us to achieve our goal of fighting and winning.[69] "Winning," at least in the long term, does not involve just destroying things or gaining territory. It involves defeating the enemy's will

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[68] *Id.*

[69] *Id.*

to fight. If he perceives that it is not in his best

interests to continue to fight, the enemy will move along

the operational continuum toward peace. Otherwise, he will

not. For example, in the Gulf War, the U.S.-led coalition

declared victory because it accomplished what it had set out

to do -- liberate Kuwait.[70] However, in the long-term view,

it did not truly reach a state of the environment that falls

in the range of conditions that the Army would label

"peacetime."[71] At best, the U.S. has remained somewhere in

the range of the continuum labeled "conflict." The U.S. has

fought the environmental terrorism of oil fires;[72] conducted

"no fly" operations to protect Kurds;[73] redeployed large

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[70] *See* Bruce W. Nelan, *Ready For Action. (Defense Secretary Dick Cheney And General Colin Powell, Chairman Of The Joint Chiefs Of Staff)*, TIME, Nov. 12, 1990, at 12. The UN adopted President Bush's pledge on Nov. 29, 1990 in Security Council Resolution No. 678, "calling for the U.S. and its allies to 'use all necessary means' to liberate Kuwait if Iraq did not withdraw by Jan. 15, ..." Yevgeni Primakov, *The Inside Story Of Moscow's Quest For A Deal. (The Gulf War)*, TIME, Mar. 4, 1991, at 40.

[71] *See* Colonel Richard Szafranski, *Neocortical Warfare? The Acme of Skill*, MIL. REV., Nov. 1994, at 41, 43 ("If, for example, Operation *Desert Storm* was a success, that is, it subdued hostile will, it is difficult to explain Saddam Hussein's continuing willful behavior.").

[72] *See, e.g.*, Kim Murphy, *Kuwait's Oil Towns Poisoned by Blazing Wells*, L.A. TIMES, Mar. 18, 1991, at 1.

[73] Begun five years ago, we continue to maintain no fly zones in northern and southern Iraq to protect the Kurds whose uprising against Saddam Hussein was brutally crushed after the Gulf War. *See Absolute Victors Missing In Action 5 Years After Gulf War*, SACRAMENTO BEE, Jan. 17, 1996, at A1. We continue to send units from all parts of the armed forces to patrol the no-fly zones. *See* Joe Darby, *La. Guard Unit Takes Carnival Overseas*, NEW ORLEANS TIMES-PICAYUNE, Feb. 8, 1996, at A1 (Reporting that a wing from the LA National Guard would be performing a rotation in Turkey assisting with the patrol of the no-fly zone.).

scale forces based on Iraqi troop build-ups;[74] and conducted a continuing embargo to try to exact Iraqi compliance with United Nations Resolutions.[75] Though the coalition won the physical battle, it did not win the ideological battle.[76] By failing to successfully alter the perceptions of the Iraqi leadership as to what actions are in their best interests, the U.S. and others remain mired in the middle-ground of conflict which is expensive and time-consuming, taxing the nation's resources. This result demonstrates that even a crushing physical defeat is insufficient by itself to guarantee the result a nation wants -- the defeat of the adversary's hostile will.

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[74] In August of 1994, Saddam Hussein prompted the deployment of tens of thousands of American Troops by massing his forces along the Kuwaiti border. *See Another Test From Saddam Hussein*, ST. LOUIS POST-DISPATCH, Oct. 11, 1994, at 12B; Robin Wright, *U.S. Back to Square One in the Gulf Mideast: Despite huge show of American force, Hussein is still in power, and the area is still vulnerable, experts say*, L.A. TIMES, Oct. 14, 1994, at 24. Information continues to reach us that Saddam may have further tricks up his sleeve. *See Iraq Planned Invasions, Defector Says Saudi Arabia, Kuwait Reportedly Targeted*, CHI. TRIB., Aug. 21, 1995, at 3.

[75] The economic embargo designed to exact full Iraqi compliance with UN Resolutions has recently been continued. It has not had the desired effect, however, as Iraq continues to ignore requirements such as cooperation with weapons inspectors. *See, e.g., UN Council Maintains Embargo Against Iraq*, THE BOSTON GLOBE, Jan. 6, 1996, at 7.

[76] Margaret Thatcher, Prime Minister of Great Britain during the Gulf War has said, "[t]here is the aggressor, Saddam Hussein, still in power. There is the president of the United States, no longer in power. There is the prime minister of Great Britain who did quite a lot to get things there, no longer in power. I wonder who won?" *Absolute Victors Missing In Action 5 Years After Gulf War, supra* note 73, at A1.

Of course, the ammunition in the battle of perception is information. Our ability to deal in this vital commodity is critical if we are to begin using the power of perception to our advantage. It may be then, that information, while revolutionizing society, is also revolutionizing military affairs.

B.   *The Third Wave and The Rising Tide of Information*

Futurists have described the changes occurring in society, and their concomitant reflection in the military, using several metaphors. Some speak of ages,[77] others of generations.[78] Perhaps, the most widely used analogy, however, is the one put forth by Alvin and Heidi Toffler, and that is waves.[79] This metaphor is purposeful. To the

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[77] *See* Sullivan & Dubik, *supra* note 32.

[78] *See* Lieutenant Commander Randall G. Bowdish, *The Revolution in Military Affairs: The Sixth Generation*, MIL. REV., Nov.-Dec. 1995, at 26. Lieutenant Commander Bowdish attributes the generation metaphor to two articles, William S. Lind et al., *The Changing Face of War: Into the Fourth Generation*, MIL. REV., Oct. 1989, at 2-11, and Major General Vladimir Slipchenko, *A Russian Analysis of Warfare Leading to the Sixth Generation*, FIELD ARTILLERY, Oct. 1993, at 38-41.

[79] TOFFLER, *supra* note 9, *passim*; ALVIN & HEIDI TOFFLER, THE THIRD WAVE (1980). The Tofflers apply this metaphor to a myriad of activities in society, not just warfare. Despite widespread reliance on this conceptualization, there are those who criticize this view as it relates to warfare. *See* Robert J. Bunker, *The Tofflerian Paradox*, MIL. REV., May-Jun. 1995, at 99. Professor Bunker criticizes the Toffler's view on two levels. First, the theory has systematic problems in that it ignores certain historical anomalies to its "super-civilization" generalizations in all three wave periods. *Id.* at 100-01. Second, the foundation of the Toffler's theory is "precarious" because it is based upon "economic production modes set at the super-civilization level" and the Tofflers have no "military history expertise." *Id.* at 101-02. In Professor Bunker's view, these problems create "a potential conceptual (Continued on Next Page)

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Tofflers, "[w]aves are dynamic. When waves crash in on one another, powerful crosscurrents are unleashed. When waves of history collide, whole civilizations clash. And that sheds light on much that otherwise seems senseless or random in today's world."[80] This metaphor logically fits the military because it represents two things that our continuum of operations is: fluid and dynamic. Operations are fluid because they can shift before, during and after execution as the ideological calculus[81] of the participants changes. They are dynamic, because they involve many different aspects, some of them in opposition, that travel in a myriad directions, but that must be harnessed and directed if we are to achieve our national strategic goals.

In the Tofflers' view, each wave of civilization has a driving force that produced it -- in a sense, the tide that drives the wave.[82] The First Wave was driven by and was "a product of the agricultural revolution."[83] Thus, First Wave societies focus on the land and the form of its society is a

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blind spot . . . within the RMA literature adopted by the Army." *Id.* at 102.

[80] TOFFLER, *supra* note 9, at 18.

[81] *See supra* section II.A.3. for a description of what I mean by ideological calculus.

[82] *See* TOFFLER, *supra* note 9, at 18-25. For a more detailed discussion read pages 29-85.

[83] *Id.* at 19. For a more detailed discussion read pages 33-37.

result of this focus. The Second Wave ushered in the industrial society. The driving force was the systemization represented in factories resulting in everything being done in mass -- "mass production, mass consumption, mass education, mass media."[84] This changed the society to one of specialized institutions that served these systems. As industry sprung up in the societies transitioning to the Second Wave, conflict inevitably arose. Factories and cities ate up land that those committed to the First Wave wanted to keep as agricultural. The world at large reflected these internal struggles. Of course, the mass-industry of the Second Wave overmatched the resources of the First Wave. While both continued to coexist, the dominant society was clearly the Second Wave.[85]

We are now beginning to ride the Third Wave. Not that the other two types have disappeared. The world is moving from one based on two waves that influence ideology (agriculture and industrial), to one where three waves will be crashing simultaneously.[86] The world is becoming "sharply divided into three contrasting and competing civilizations -- the first still symbolized by the hoe; the second by the assembly line; and the third by the

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[84] *Id.* at 19. For a more detailed discussion read pages 38-43.

[85] *Id.* at 19-21.

[86] *Id.* at 21-25. The Tofflers say the world is moving from being "bisected" to being "trisected." More detailed discussion on the implications of a trisected world can be found in *id.* at 213-220.

computer."[87] The driving force giving rise to this wave is

knowledge.[88] And the currency of knowledge is information.[89]

The rising tide, then, is a tide of information. There
are a myriad aspects to the use of information being
discussed in the military context. Some look to disrupting
the communications systems of the enemy; others look to
disrupting the computer networks that support third wave
economies; still others look at defenses to these same
eventualities.[90] Most of the focus, however, remains on

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[87] *Id.* at 21.

[88] "[K]nowledge -- broadly defined here to include data, information,
images, symbols, culture, ideology, and values -- is the central
resource of the Third Wave economy." *Id.* at 58. Similarly, the changes
in warfare demonstrated to some degree in the Gulf War placed "knowledge
at the center of warfare as well." *Id.* at 69.

[89] The Tofflers feel that the real value of a company in a Third Wave
economy "increasingly lies in their capacity for acquiring, generating,
distributing, and applying knowledge strategically and operationally."
Id. at 59. In other words, the resource -- knowledge -- produces value
because we can exchange it. The way we exchange knowledge is through
information and information systems. As applied to warfare, knowledge
is also the "central resource of destructivity, just as it is the
central resource of productivity." *Id.* at 71. Thus, the military also
needs to deal in information and information technologies to "spend"
this resource. *See id.* at 89-175 (Discussing a number of ways this
is/could be done from space to intelligence to the media.). *See also*
Sullivan & Dubik, *supra* note 32, at 47, Fig. 1 ("Information is the
currency of command."); Peter Grier, *Information Warfare*, AIR FORCE
MAGAZINE, Mar. 1995, at 34 ("Military officials believe that information
increasingly is becoming the currency of true military and economic
power.").

[90] *See, e.g.*, James Adams, *Dawn of the cyber soldiers*, THE SUNDAY TIMES,
Oct. 15, 1995, *available in* LEXIS, NEWS Library, TTIMES File. ("The 32
students sitting in a classroom at the National Defense University are
in the vanguard of a military revolution that threatens to redraw the
battle lines of future conflicts. The students, roaming the Internet on
their laptop computers to devise ever more chilling strategies for
creating chaos, are the first generation of cyber warriors. They are
part of the Pentagon's preparations for a day when . . . weapons are the
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information *systems*.[91] The overlooked factor is using the information itself to our advantage. Regardless of whether we face a First, Second, or Third Wave opponent, they will base their action on what they know -- about themselves and us. More accurately, they will base decisions on what they PERCEIVE that they know. The real power, then, in the third wave is not going to be destroying information infrastructure[92] or speeding up our information processes to

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keyboards with which they shut down their enemies' communications, manipulate their media and devastate their finances."); *DOD Panel To Seek Solutions To Information Warfare Threat*, DEFENSE DAILY, Nov. 16, 1995, *available in* LEXIS, NEWS Library, ASAPII File ("A Defense Science Board study has been commissioned to focus on how DOD can protect information systems crucial to national security from attack by potential saboteurs, according to Pentagon and industry officials.").

[91] According to the Tofflers, "much of this doctrinal discussion [about information warfare] still focuses on the details of electronic warfare--knocking out an adversary's radar, infecting his computers with viruses, using missiles to destroy his command and intelligence centers, 'spoofing' his equipment by sending false signals, and using other means to deceive him." TOFFLER, *supra* note 9, at 140. *See also supra* note 35, discussing the vision of the Army leadership being on the use of information to make things work better, rather than on using the information itself. The Tofflers see this view changing, however, to one where using information isn't just about breaking the enemy's systems or *denying* the enemy information. The new view sees information as "a powerful lever capable of altering high-level decisions by the opponent." TOFFLER, *supra* note 9, at 140. It is at this level that PSYOP can play a critical role.

[92] This was the focus in Desert Storm Air Campaign where we sought to "[i]solate and incapacitate the Iraqi regime." DEP'T OF DEFENSE, FINAL REPORT TO CONGRESS, CONDUCT OF THE PERSIAN GULF WAR 95 (Apr. 1992) [hereinafter GULF WAR REPORT]. To accomplish this, the allied forces focused on attacking command facilities, telecommunication facilities, and command, control, and communication nodes. *Id.* at 95-96. In contrast to this strategic focus in physical destruction of information infrastructure, the one military asset we had to affirmatively use information itself against the will of the leadership, PSYOP, was focused operationally on the Iraqi troops. *Id.* at 536-38.

"outflank" the enemy.[93] These our still limited views based on physical destruction. The real power is to use the information itself to target what we are really after -- the enemy's will.[94] We do this by controlling his perceptions.

C.   A Revolution in Military Affairs

It has become much in vogue to discuss military changes in terms of "Revolutions in Military Affairs" or RMAs.[95] While this term defies precise definition, it has been argued to have three essential components or preconditions to the occurrence of the RMA.[96] First, there must be technological development - one or more emerging technologies that through design or accident have military application.[97] Second, doctrinal innovation must follow to incorporate the new technology into planning and training of

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[93] *See* Captain Arthur S. DeGroat & David C. Nilsen, *Information and Combat Power on the Force XXI Battlefield*, MIL. REV., Nov.-Dec. 1995, at 56 (discussing "the time-information differential" and ways to reduce it to increase maneuverability and economy of force on the battlefield.).

[94] I am not saying that the means to physically destroy infrastructure are not important or necessary. However, it is an oft-quoted axiom of Sun Tzu that "[t]o subdue the enemy without fighting is the acme of skill." *See, e.g.*, SEABURY & CODEVILLA, *supra* note 12, at 160; Szafranski, *supra* note 71, at 43, both quoting this maxim of Sun Tzu. We do not get to that pinnacle by destroying things. We get to that pinnacle by destroying the enemy's will, altering his ideological calculus, before the bullets fly.

[95] *See, e.g.*, Fitzsimonds and Van Tol, *supra* note 11; Bowdish, *supra* note 78.

[96] Fitzsimonds and Van Tol, *supra* note 11, at 25.

[97] *Id.*

the military and its operations.[98] Third, there must be organizational adaptation which is both within and without the military.[99] This adaptation entails significant changes in bureaucracy, acceptance of technology, and at times even political/cultural changes to approve the use of the techniques and equipment driving the RMA.

The United States is in the midst of realizing the first of these elements with regard to information. As the tide brings in the Third Wave, information technology is changing at a pace that is virtually unprecedented. The impact and cross-currents of this wave are already beginning to reverberate across the spectrum of our activities. From government, to economics, to the military, we are faced with exciting technological developments that enable us to receive, distribute and utilize information in ways that only existed in imagination a few short years ago.[100]

The task now is in achieving the second and third elements of this RMA. These are the more difficult ones

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[98] *Id.* at 25-26.

[99] *Id.* at 26.

[100] *See, e.g.*, Jeffrey Klein, *Our past, their future. Mother Jones' 20th Anniversary*, MOTHER JONES, Jan. 1996, at 28 ("Thanks to high technology, we can communicate instantaneously and have previously unimagined amounts of information at our fingertips."); Michael Shoukat, *Criteria for LAN acquisition planning*, JOURNAL OF SYSTEMS MANAGEMENT, Oct. 1994, at 6 ("Technological advances in hardware, innovation in networked services, popularity of personal computers, affordability of information technology and the availability of practical services have increased network traffic more than could have been imagined by the designers of present generation LANs.").

because they involve human institutions and the inherent resistance to change that can sometimes bog down military organizations.[101] To their credit, the military services have been making strides in this area.[102] The remainder of this paper addresses a specific capability, psychological operations, that can take the U.S. a long way toward achieving, at least partially, the second and third elements of the Information RMA. PSYOP are one method to harness the true power of information and direct it toward achieving U.S. national strategic objectives. "Catching the Wave" on this RMA is critical because "being second best may lead to catastrophic loss in future wars."[103]

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[101] *See* Fitzsimonds and Van Tol, *supra* note 11, at 30. ("Why some innovations succeed and others fail, and why some militaries innovate rapidly while other languish, are matters for debate. History provides no clear guidance on overcoming institutional resistance to change and no final explanations of the relative roles of civilians, military mavericks, or visionaries.").

[102] For example, the Joint Chiefs of Staff have issued a policy memorandum on command and control warfare that incorporates PSYOP. Memorandum of Policy No. 30, Office of the Chairman of the Joint Chiefs of Staff, subject: Command and Control Warfare (1st Rev., 8 Mar. 1993) [hereinafter CJCS Memo]. The Army is in the process of producing a new field manual focused on information operations. DEP'T OF ARMY, FIELD MANUAL 100-6, INFORMATION OPERATIONS (Draft, 2 Oct. 1995) [hereinafter FM 100-6]. The Navy has established a Naval Information Warfare Activity, Fleet Information Warfare Center, and Modeling and Simulation Office. Admiral Jeremy M. Boorda, *Leading the Revolution in C⁴I*, JOINT FORCE Q., Autumn 1995, at 14, 17. The Air Force is working information operations into its overall mission planning. *Air Force Details Information Warfare Mission Structure*, *supra* note 3.

[103] Fitzsimonds and Van Tol, *supra* note 11, at 28.

III.   Psychological Operations: The Purveyors of
Persuasion.

In 1972, a Department of State advisor to the Army's
John F. Kennedy Special Warfare Center asked in the title of
an article, "PSYOP: What is it? And what should we do
about it?"[104]   At some level, the notoriety of PSYOP in
Operation DESERT STORM has informed people on the first
question, although a number of misconceptions still abound.
Twenty-four years later, however, the nation has barely
scratched the surface of the second question.[105]   One should
reframe this question as, "What do we do *with* PSYOP?"   This
is the critical question as the nation enters the Third
Wave.   Its decision will have legal and political
consequences.   I propose a system of centralized control and
decentralized execution that addresses legal and political
issues while enabling use of military PSYOP at the strategic
level in pursuit of America's national interests.   Before

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[104] Barrett, *supra* note 1, at 57.

[105] The vision of the potential for PSYOP was put forth over a decade
ago.   "In 1985, the Department of Defense responded to a presidential
directive 'to revitalize DOD PSYOP and integrate it into other . . .
programs of the United States Government.'   The resulting 1985 PSYOP
Master Plan was aimed at making Dod PSYOP 'one of the strategic
instruments of national security' . . . ."   Major Jay M. Parker,
Training the PSYOP Force, SPECIAL WARFARE, Oct. 1992, at 2, 5, *quoting*
DEP'T OF DEFENSE, 1985 PSYOP MASTER PLAN.   The 1990 revision of the PSYOP
Master Plan was designed to "continue the Presidentially directed
revitalization."   DEP'T OF DEFENSE, DOD PSYOP MASTER PLAN iii (March 1990)
[hereinafter 1990 MASTER PLAN].   Despite this vision, PSYOP is still
relegated to its conventional image of leaflets and loudspeakers in
support of military operations.   The true strategic use of PSYOP has not
been accomplished.

proposing changes, however, a discussion of where U.S. Army

PSYOP forces stand today would be helpful. Toward that end,

I will answer the question of what PSYOP is, look at the

units that conduct them, and then move on to the final

sections of this paper which discuss my recommendations for

change or, what we should do with PSYOP.

A.   PSYOP: What is it?

Military operations involve interaction between human

beings. This is a truism, but an important one, because

this fact makes it axiomatic that there is a psychological

element to these operations. Throughout history, astute

commanders have realized the military value of working the

psychological aspects of warfare to their advantage.[106] The

capabilities of the United States Army to conduct

psychological operations has been cyclic, rising and falling

when faced with conflict. However, our capabilities had

drastically degraded after the Vietnam War.[107] The

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[106] As far back as Sun Tzu this was recognized. His oft-quoted axiom is
"To subdue the enemy without fighting him is the acme of skill." *See*
SEABURY & CODEVILLA, *supra* note 12, at 160. *See also supra* notes 2 & 36-40
and accompanying text and *infra* note 108 & 110 for references to this
principle in Clausewitz's work, in the quotes of modern commanders, and
in the works of commentators.

[107] *See* Alfred H. Paddock, Jr., *Military Psychological Operations, in*
POLITICAL WARFARE AND PSYCHOLOGICAL OPERATIONS: RETHINKING THE US APPROACH 45, 49
(F. Barnett & C. Lord eds., 1989) ("By the mid-1970s, however, all that
remained in the active component was an understrength group at Fort
Bragg with antiquated equipment -- a condition that did not improve
significantly for ten years.").

revitalization of PSYOP in the 1980s and 90's has convinced military commanders, at least, that PSYOP is a critical force multiplier.[108]

While PSYOP are in demand, they are still misunderstood and mistrusted.[109] Part of this is engendered by a common sense understanding of the terms that comprise the name. Unfortunately, this common sense understanding does not accurately convey what PSYOP are and how and why we conduct them. This section seeks to dispel these misconceptions.

1.   *The Definition of PSYOP*

Military actions have a psychological impact. However, this psychological impact is often the unintended result of the achievement of a more conventional military objective.[110]

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[108] *See* FM 100-6, *supra* note 102, at 3-7 (quoting General John M. Shalikashvili as saying, "it is my belief that much of the success achieved during Operation PROVIDE COMFORT can be attributed to the successful integration of psychological operations (PSYOP) in support of the overall humanitarian assistance mission. . . . PSYOP is a true force-multiplier.").

[109] This misunderstanding is especially acute among the citizenry who have no experience with the conduct of PSYOP. For example, a citizen wrote to National Public Radio concerned about the participation of the 4th PSYOP Group in the relief effort in Florida during Hurricane Andrew. He said, "I don't know about you, but I think it's very scary [sic] the Army's Psychological Operations, or PsyOps [sic] unit, has taken charge of disaster communications in Dade County, Florida. What business does a military propaganda, disinformation and psychological warfare unit have taking charge of public communications during a time of natural disaster at home?" *Letters: Andrew & Army, All Things Considered* (NPR Radio Broadcast, Sept. 2, 1992) *available in* LEXIS, NEWS Library, NPR File. This distrust of PSYOP and propaganda is considered by scholars as a characteristic of democracy. *See also* sources cited *supra* note 1.

[110] *See, e.g.*, Alexander R. Askenasy, *The Role of Psychological Operations Within the Military Mission*, *in* MILITARY PROPAGANDA: PSYCHOLOGICAL WARFARE AND OPERATIONS 9, 12 (R. McLaurin ed., 1982) ("[A]ll

Not all of these actions are Psychological Operations (PSYOP). Rather, PSYOP are only those that are *"planned to convey selected information and indicators to foreign audiences to influence their emotions, motives, objective reasoning and, ultimately, the behavior of foreign governments, organizations, groups, and individuals."*[111] Several important distinctions come out of this definition.

First, PSYOP are only those operations that are specifically planned to have psychological impact. In other words, the whole purpose for conducting the particular action is to achieve the psychological objective. It should be noted that this does not mean that PSYOP planners do, or should, ignore the psychological effects of conventional operations. To the contrary, PSYOP should emphasize these operations and maximize their effect.[112] Still, it is important to distinguish the two when considering the assets

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military actions can have psychological effects on perception and behavior, whether or not the commander intended such effects."); SEABURY & CODEVILLA, *supra* note 12, at 162 ("Imagine then the psychological effect of Genghis Kahn's Golden Horde, riding out of the clouds of yellow smoke generated by hundreds of pots of burning sulphur, while the great war drums sounded out doom! The enemy might as well have been focusing his mind on escape routes rather than on the impending battle.")

[111] JOINT CHIEFS OF STAFF, JOINT PUBLICATION 3-53, *Doctrine for Joint Psychological Operations* I-1 (30 July 1993)(emphasis added) [hereinafter JOINT PUB. 3-53]. *See also* FM 100-6, *supra* note 102 at 3-6.

[112] For example, in the Gulf War, PSYOP leaflets worked in concert with the air campaign to induce surrender and break the Iraqi soldier's will to fight. *See* GULF WAR REPORT, *supra* note 92, at 140.

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we have dedicated to PSYOP and the doctrine and policies

that limit them.

Second, the U.S. directs PSYOP only at foreign

audiences. Our assets contain many of the same capabilities

as the civilian media, with the possible distinction being

our capability to operate without established

infrastructure.[113] Because of these capabilities, military

PSYOP assets have been used domestically for such things as

disaster relief.[114] Their role, however, was sharply

circumscribed to allow only for information dissemination;[115]

there could be no intent to psychologically influence the

audience. Limitations on the use of PSYOP within the United

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[113] This distinction is rapidly disappearing, particularly for major media outlets like CNN. Still, most civilian media rely on services such as electrical power that may not be available. PSYOP units contain organic capability to produce electrical power. *See* 4TH PSYOP GROUP, CAPABILITIES HANDBOOK (Booklet on file at the International & Operational Law Department, The Judge Advocate General's School, Army. It discusses the organic power generation capability that is standard to each piece of PSYOP equipment.)

[114] For example, PSYOP units helped bring relief to South Florida after Hurricane Andrew. *See, e.g.*, Kirk Spitzer, *Reporter's Notebook On Hurricane Andrew*, Gannett News Service, Sept. 2, 1992, *available in* LEXIS, NEWS Library, GNS file (Reporting on the 4th PSYOP Group's operation of an AM radio station and conduct of loudspeaker operations to provide disaster information to residents of south Florida).

[115] Disaster relief is doctrinally included in PSYOP's role. *See* DEP'T OF ARMY, FIELD MANUAL 33-1, PSYCHOLOGICAL OPERATIONS 3-30 (18 Feb. 1993)[hereinafter FM 33-1]. However, the focus is on foreign disaster relief. In that context, PSYOP may "exploit these humanitarian operations by 'advertising' where the relief is coming from." *Id*. In the domestic context, the role is much more limited. There, PSYOP units may be "employed in a dissemination role only and not to project a PSYOP message." DEP'T OF ARMY, FIELD MANUAL 33-1-1, PSYCHOLOGICAL OPERATIONS TECHNIQUES AND PROCEDURES 2-1 (5 May 1994)[hereinafter FM 33-1-1].

States is a matter of policy and reflects our fear of the potential for abuse of this capability to gain power over our citizenry.[116] Thus, the U.S. directs PSYOP toward foreign audiences to achieve national security objectives in foreign lands.

Third, these operations ultimately seek changes in behavior. The goal of PSYOP is not just to make people *think* something, but to make them *do* something. In wartime, the U.S. may want combatants to give up the fight and surrender.[117] In Operations Other Than War, the U.S. may want people to turn in their weapons[118] or refugees to enter camps to receive humanitarian aid.[119] In the larger sense, America's military gears its entire operations toward making

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[116] *See infra* notes 223-25 and accompanying text for a discussion of the current policy situation regarding U.S. Citizens. *See supra* notes 1 & 109 for sources discussing the mistrust of PSYOP by Americans.

[117] In the Gulf War, "PSYOP focused on destroying Iraqi morale and encouraging mass surrender and desertion." GULF WAR REPORT, *supra* note 92, at 536.

[118] For example, PSYOP units supported the so-called guns-for-cash program during Operation UPHOLD DEMOCRACY in Haiti. *See, e.g.*, Mark Fineman, *Guns-for-Cash Plan Runs Up Against Fear*, L.A. TIMES, Sep. 28, 1994, at 1 (reporting that U.S. Army helicopters were flying over the streets advertising the program through loudspeaker systems.).

[119] One of the missions for PSYOP during Operation PROVIDE COMFORT was to get the Kurdish refugees from the mountains into the camps being constructed for them. *See, e.g.*, John M. Broder & James Gerstenzang, *GIs Enter Iraq to Set Up Camps Refugees: First of 10,000 American troops survey northern area for Kurdish assistance sites. Battle teams in Turkey will respond to any military threat*, L.A. TIMES, Apr. 18, 1991, at 1 ("U.S. military psychological operations teams will circulate through the makeshift refugee camps in the mountains to inform the Kurds that the new camps are open.").

other people behave in ways that comport with or promote U.S. national objectives in the situation. What causes this behavioral shift, however, is a shift in ideology by modulating perception. Thus, PSYOP is a critical asset since it can achieve long-term behavior changes. The changes are lasting because they reflect a deeper change that is the actual result of PSYOP -- a shift in ideology and will relative to U.S. objectives.

2. The Target of PSYOP

One of the key elements in planning PSYOP is to determine the group who will respond to the message. This group is the target audience.[120] It is within this group that PSYOP seek to alter attitudes and ideology to achieve particular desired behaviors. PSYOP planners select the target audience based upon three criteria.[121] The first criteria, power, refers to the group's ability or capacity to perform effectively in the ways desired. Second, accessibility, which measures U.S. ability to reach the audience with the media available. Third, susceptibility, which is the degree to which PSYOP can modulate the perceptions of the particular person or group.

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[120] The target audience is "a collection of people who have common characteristics and vulnerabilities that may make them susceptible to the effects of a PSYOP program." FM 33-1-1, *supra* note 115, at 6-2 - 6-3.

[121] This process is called "target audience analysis." It is discussed in detail in *id.* at 6-1 - 6-10.

It should be noted that target audiences are not limited to military units.[122] Just as our spectrum of operations is broad, so are the spectrum of people who can influence those operations for better or worse. Quite often, the general populus (or at least portions of it) can be the most susceptible to psychological influences and may have the power to act in response to that influence. For example, in Vietnam it was the demoralization of our citizenry through nightly media barrages of human carnage that ultimately undermined the war effort.[123]

B.   PSYOP: Why do we do it?

1.   The Mission of PSYOP

PSYOP units are not stand-alone forces. Their "role is to support other military units or U.S. Government agencies in reaching U.S. national objectives."[124] The "PSYOP unit's mission comes from the supported unit's mission. Thus, PSYOP mission planning focuses on how to provide the most effective support to the supported unit."[125] As a

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[122] In the discussion of target audience analysis, doctrine lists a few examples of groups to consider including families, small military units, and parliaments. *See id*. at 6-3.

[123] *Cf*. KARNOW, *supra* note 56, at 523 (Describing how "years of viewing the war on television, . . . [had] transmitted the grueling reality of the struggle -- remote, repititious, monotonous -- punctuated peridoically by moments of terror.").

[124] FM 33-1, *supra* note 115, at 1-2.

[125] *Id*. at 7-1.

consequence of this support role, the standing mission of the Army's lone active component PSYOP Group is stated in broad terms. This group

> plans and conducts PSYOP activities authorized and implemented worldwide in support of all nonmobilization contingencies during crises and open hostilities short of declared war. It also develops, coordinates, and executes peacetime PSYOP activities. In addition, should war be declared, the AC PSYOP group assists in the planning and execution of strategic and operational PSYOP for the unified command CINCs.[126]

The critical distinctions for purposes of this paper are first, that the view of PSYOP is as a support unit, rather than as a primary actor in operations in pursuit of foreign policy. This needs to change as the U.S. enters the Third Wave. Second, the current standing mission statement is broad enough to encompass PSYOP that are not merely supporting a military operation, but that occur as stand-alone actions in pursuit of a national security objective.

2.   The Capabilities of PSYOP

PSYOP units bring a variety of capabilities to any operation that can greatly aid in achieving the national security objective at stake. The PSYOP objective that might meet the national security goal varies with the level of PSYOP the Army is conducting. However, PSYOP capabilities apply throughout the operational continuum. The following

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[126] *Id.* at 4-1.

is a partial list of capabilities that underscore the
potential for PSYOP's effectiveness on the ideological
battlefield of the future.

First, PSYOP can inform audiences in denied areas.[127]
By denied areas, I mean, areas that are receiving no
information or inaccurate information. The delivery method
can be whatever is required to reach the audience.[128] It may
be that the PSYOP unit is serving as a replacement for
damaged communication systems. They may inform the people
of the intentions of our forces in the area or reassure
isolated people of our support. Whatever method and message
is needed, military PSYOP units may be able to reach denied
audiences when others cannot.

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[127] *Id.* at 1-3; FM 33-1-1, *supra* note 115 at 2-2, Fig. 2-1.

[128] Of course, one of the issues when conducting the target analysis
mentioned above is accessibility of the audience. It is possible that
an audience cannot be reached by PSYOP units for physical or policy
reasons. FM 33-1, *supra* note 115, at 1-3. Decision makers would have
to consider applicable limitations. It is hard to imagine a situation
where people could not be reached if the desire and funds were there.
For example, during my assignment at the 4th PSYOP Group, the unit was
involved with the conduct of the refugee camps in Guantanomo Bay, Cuba.
In order to provide reliable communication, small radios were issued in
the camp. The Group then operated a radio station to broadcast needed
information and entertainment to the camps. There is no reason why a
similar principle could not be applied in any operation. First, supply
the means to receive (by air-drop if necessary), then send the message.
See ALVIN & HEIDI TOFFLER, *supra* note 9, at 237 ("If U.S. psychological
warfare experts in the Gulf could drop 29 million leaflets on the
Iraqis, could a few thousand tiny, cheap radios, tuned to a 'Peace
Frequency' be dropped over the war zone so that combatants could hear
something other than their own side's lies?").

Second, PSYOP is geared to exploit ethnic, cultural, religious, and economic differences.[129] PSYOP units contain cultural and language expertise that keep them in tune with the target population.[130] This enables them to project the most persuasive message possible. This capability can be used to curb violence between factions, develop programs that will appeal to certain groups, or design actions that will be particularly effective against a group based on its belief systems.[131]

Third, PSYOP can help project a positive view of the U.S. and our actions, whether we are in-country or not.[132] Overcoming censorship, misinformation, or enemy propaganda can accomplish this objective. Underscoring positive U.S. programs or informing audiences of programs of which they are not aware may also work.

Finally, PSYOP can support internal groups that are favorable to U.S. policies.[133] These groups can be

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[129] FM 33-1, *supra* note 115, at 1-3; FM 33-1-1, *supra* note 115, at 2-2, Fig. 2-1.

[130] FM 33-1-1, *supra* note 115, at 2-1 - 2-2.

[131] For example, one of the objectives of strategic PSYOP is to "encourage disaffection among opponents on the part of ethnic, social, political, economic, and other elements having grievances against each other." *Id*. at 2-4, fig. 2-2.

[132] FM 33-1, *supra* note 115, at 1-3, FM 33-1-1, *supra* note 115, at 2-2, Fig. 2-1.

[133] *See* FM 33-1, *supra* note 115, at 1-3. Listed among PSYOP capabilities are "[s]ustaining the morale of resistance fighters" and "[i]nfluencing local support for insurgents."

insurgents or resistance fighters or they might be a rival political organization. PSYOP messages can underscore our support for the group and help persuade others in that area to support them.

These are only a few of the many uses to which PSYOP can be put. These particular capabilities highlight the value of PSYOP to potential national security goals, with or without the use of other types of military units. How PSYOP is used and what capabilities are brought to bear will vary with the objectives being sought. The level of PSYOP being conducted determines which of these PSYOP objectives might accomplish the mission.

3.   PSYOP in the Operational Continuum

The Army conducts PSYOP across the continuum of operations previously discussed. The PSYOP may be strategic, operational, tactical, or consolidation in nature.[134]

Strategic PSYOP refers to operations that support the "broad or long-term aims"[135] of the nation and results will become visible in the indefinite future. At the strategic level, PSYOP seeks a variety of objectives. Chief among these is to "support and explain U.S. political policies, aims, and objectives abroad" and to relate these policies

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[134] FM 33-1-1, supra note 115, at 2-3.

[135] Id.

"to the aspirations of the target audience."[136] Other

objectives include the amplification of economic and other

sanctions; influencing the foreign nation's strategy;

lowering the morale of the civilian populace or America's

opposition; and encouraging or discouraging ethnic, social,

political, economic, or religious groups that have

grievances against each other where this is in the interest

of the U.S.[137]

Operational PSYOP "demonstrate characteristics of both

Strategic and Tactical PSYOP" and serve as a "bridge"

between the two.[138] These activities seek more rapid change

in the target audience behavior. They are not as broad as

strategic PSYOP but focus more specifically on a particular

region or nation. This focus is reflected in the

Operational PSYOP objectives. Principle among them is to

"[p]repare [the] target country's population for the

introduction of U.S. forces" and "[m]inimize civilian

interference" with U.S. operations.[139] Additional objectives

are countering enemy propaganda and encouraging conflict

among the opponent's forces and their population.[140] The

clear change in these objectives is a focus on military

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[136] *Id.* at 2-4, Fig. 2-2.

[137] *Id.*

[138] *Id.* at 2-3.

[139] *Id.* at 2-4, Fig. 2-3.

[140] *Id.*

operations in a particular country and with particular groups as opposed to the strategic level which focuses more on the larger national security interests of the nation.

This trend toward military focus continues and is more complete at the tactical level. The Army performs these PSYOP "in direct support of military tactical operations."[141] The objectives reflect this focus and include lowering enemy morale, deception operations, and providing information and direction to friendly elements operating in the area.[142] These operations are integrated, however, since another objective is the support of Strategic PSYOP through the provision of information about enemy vulnerabilities.

The final type, consolidation PSYOP, are conducted following military operations in "newly-accessible or formally opponent-held territory."[143] The objectives here begin a move away again from the military action and focus on a return to normalcy. These objectives include promoting a favorable image of the U.S. and her allies; enlisting support among leaders and the population; and promoting the rebuilding of a local government.[144]

In the recent past, at least, the U.S. has effectively utilized PSYOP in the operational, tactical, and

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[141] *Id.* at 2-3.

[142] *Id.* at 2-5, Fig. 2-4.

[143] *Id.* at 2-3.

[144] *Id.* at 2-5, Fig. 2-5.

consolidation levels. However, they have not been truly integrated at the strategic level. As America continues to move into the information age and becomes a Third Wave society, it will not be able to afford to waste this valuable asset. Instead, the U.S. will need to expand its capabilities. A look at the Army's current assets will highlight this need.

C.   PSYOP Force Structure

1.   Assets Available

PSYOP forces are a mixture of active and reserve components. In most operations, the active force will conduct the initial deployment. Reserves will replace the active component forces as soon as the Army obtains volunteers or accomplishes a call-up.[145] This system has worked well due to the professionalism and patriotism of the soldiers who comprise the PSYOP units, both active and

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[145] *See* Major Jack N. Summe, *Total PSYOP Integration: Reorganizing Active and Reserve-component PSYOP Forces*, SPECIAL WARFARE, Oct. 1992, at 10, 11 ("The USSOCOM Joint Mission Analysis [(JMA)] has identified the requirement for U.S. PSYOP forces to be able to engage in two regional contingencies and simultaneously support other theaters. The relatively small size of the active PSYOP force means that active and reserve forces would have to be integrated to meet the JMA requirement . . . the active component would most likely deploy to theater first and be reinforced later by reserve forces."). During my tenure as the Command Judge Advocate, 4th PSYOP Group (A), this process occurred for every operation. The Group has a full-time Active-Guard/Reserve (AGR) officer who coordinates the reserve forces assigned to their operations (S3) section. Throughout this section, references to conditions at the 4th PSYOP Group, as opposed to references to official publications or doctrine, are based upon my experience with that unit from 1993-1995.

reserve. However, as the role of PSYOP increases, this method of organization will reach its breaking point.

a. *Active Component*

The only active duty PSYOP unit in the United States Army is the 4th Psychological Operations Group (Airborne) at Fort Bragg, North Carolina.[146] This unit has a strength of approximately 1100 soldiers.[147] These soldiers are broken down into five battalions.[148] Three of the battalions are regionally oriented, one provides dissemination assets, and

Active PSYOP Group

| Active Component PSYOP Group |
| Headquarters & Headquarters Company | PSYOP Dissemination Battalion | 3 x Regional Support Battalion | Tactical Support Battalion |

Figure 1

the other provides tactical PSYOP support.

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[146] *See* JOHN M. COLLINS, SPECIAL OPERATIONS FORCES: AN ASSESSMENT 56-57 (1994).

[147] *Id.*

[148] *See* FM 33-1, *supra* note 115, at 4-2.

The Regional Support Battalions are composed of a headquarters element and one or more regional support companies.[149] Each regional support company is made up of a "headquarters element and two or more operational detachments."[150] Within these detachments are the product development sections.[151] These sections are the heart of PSYOP. They develop, together with civilian analysts, who are experts in various countries, regions, and cultures, the themes a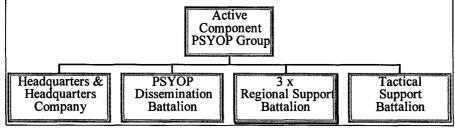nd messages for a particular PSYOP campaign.[152] These battalions also design the products which convey those themes and messages.

The Regional Support Battalion coordinates with the PSYOP Dissemination Battalion (PDB) for production and/or dissemination of PSYOP products. The PDB consists of a headquarters company and three specialized companies -- Print Company, Broadcast Company, and Signal Company.[153] The Print and Broadcast Companies contain all of the media production assets in the Group.[154] I will discuss the

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[149] *Id.* at 4-8. Note that the three Regional Support Battalions currently at the 4th PSYOP Group each have two Regional Support Companies.

[150] *Id.* at 4-11.

[151] *Id.*

[152] *Id.*

[153] *Id.* at 4-5.

[154] *Id.* at 4-5 & 4-7.

details of these assets below. The Signal Company contains the Group's organic communications assets and provides support to all of the Group's units.[155]

The remaining battalion is the Tactical Support Battalion. This battalion "provides tactical support to the Army's rapid deployment units and the Special Operations Force (SOF) community."[156] The unit consists of three companies[157] that offer limited product development capability. The Tactical Support Battalion focuses on the tactical dissemination needs of the commander. There primary means to do so is through all types of loudspeaker systems -- aircraft-mounted, vehicle-mounted, and man-packed systems.[158]

This lone active PSYOP Group is assigned to the United States Army Civil Affairs and Psychological Operations Command (USACAPOC), a reserve command organization that is subordinate to the active component United States Army Special Operations Command (USASOC).[159] USASOC is the Army component command of the United States Special Operations

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[155] *Id.* at 4-8.

[156] *Id.* at 4-11.

[157] FM 33-1 describes the organization as containing two companies. *Id.* at 4-11. However, a third company was stood up during my tenure as CJA of the 4th PSYOP Group in 1994. This additional company was activated to meet the increased need for PSYOP support.

[158] *See id.* at 4-12, Fig. 4-11.
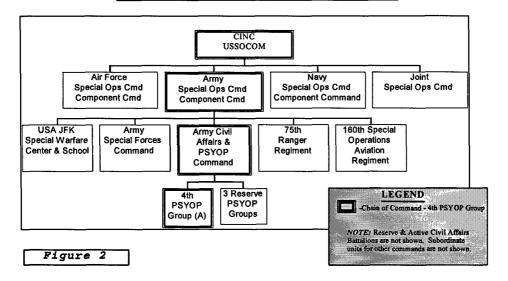
[159] *See* COLLINS, *supra* note 146, at 54-57.

Command (USSOCOM), one of the Commanders in Chief (CINCs) established by an amendment to the Goldwater-Nichols Defense Reorganization Act of 1986.[160] CINC, USSOCOM is responsible primarily for providing special operations support to the Regional Warfighting CINCs.[161] In addition, however, he has roles in doctrine and funding that are more akin to a service secretary and, in fact, exercises "the functions of the head of an agency" with regard to a number of his responsibilities.[162]

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[160] Goldwater-Nichols and its progeny are codified at 10 U.S.C. § 161-68 (Supp. 1995). USSOCOM is specifically established in 10 U.S.C. § 167 (Supp. 1995).

[161] While CINC, USSOCOM has full command authority over those forces assigned to him, see 10 U.S.C. §§ 167 (e)(1) & 164(c), the statute establishing USSOCOM specifically provides that "a special operations activity or mission shall be conducted under the command of the commander of the unified combatant command in whose geographic area the activity or mission is to be conducted" unless the President or Secretary of Defense directs otherwise. 10 U.S.C. § 167(d).

[162] 10 U.S.C. § 167(e)(4)(B). The areas over which he exercises this function are "development and acquisition of special operations-peculiar equipment" and "[a]cquisition of special operations-peculiar material, supplies, and services." *Id.* at § 167(e)(4)(A).

**Organizational Location
4th PSYOP Group (A)**

Figure 2

LEGEND
▭ -Chain of Command - 4th PSYOP Group

NOTE: Reserve & Active Civil Affairs Battalions are not shown. Subordinate units for other commands are not shown.

Army PSYOP assets have broad and powerful capabilities. However, their limited number concomitantly limits the number of operations they can support effectively. Additionally, and perhaps more importantly, the assets are buried beneath three levels of command hierarchy that must be dealt with to tap into the Army's PSYOP capability.

b.   *Reserve Component*

Given the heavy weighting of assets to the reserve components, these play a significant role in the conduct of PSYOP missions world-wide. The 4th PSYOP Group (A) has a full-time Active Guard and Reserve (AGR) officer in their

operations section to fully integrate and coordinate the reserve augmentation of the active component group.[163]

There are three reserve component PSYOP groups which have similar capabilities to the active component group, with some variations in organization.[164] These assets fall under the same major command structure as the 4th PSYOP Group.[165] As mentioned in the introduction to this section, the Army relies heavily on reserves for PSYOP support to current operations. The normal mode of operation[166] is for the active component to initially deploy in order to meet the time constraints of the mission. As soon as reserve forces are activated, outfitted, and trained, however, they replace the active component asset. This allows the active component to refit and be ready for the next contingency.

While this system has worked fairly well, there are potential problems. Chief among these is the limitations placed on the use of reserve forces. For example, absent a

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[163] This officer works in the Group's Operations (S3) Section and was an augmentee position specifically authorized because of the need to orchestrate reserve backfill in support of contingencies.

[164] *See* COLLINS, *supra* note 146, at 56-57 (discussing the number of reserve groups) and FM 33-1, *supra* note 115, at 4-13 - 4-22 (discussing the reserve organization). Probably the key addition in the Reserve Component is the PSYOP Battalion (Enemy Prisoner of War (EPW)/Civilian Internee (CI)) which assists in EPW/CI operations at the Corps and Theater level.

[165] *See* Figure 2, *supra*.

[166] This description is based upon the mode of operation that I witnessed during my assignment to the 4th PSYOP Group. This process was followed for all activities from exercises to contingencies.

Presidential call-up, the unit must rely on volunteers to come on active duty.[167] Additionally, Army regulations limit the justifications for activating and paying a reservist on full-time active duty.[168] Most of these justifications contain a time limit that the reservist can remain on active duty, usually 180 days or less.[169] The regulations limit the utility of the system of reserve backfill, particularly in long-term operations.[170] Moreover, these types of unknowns

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[167] The President has authority to order the activation of up to 200,000 Selected Reservists for a period of 90 days. 10 U.S.C. § 673b. This authority was used for the first time since becoming law in 1976 during Operations DESERT SHIELD/DESERT STORM. GULF WAR REPORT, *supra* note 92, at 474. Absent this call-up, orders to active duty are voluntary. *See* DEP'T OF ARMY, REGULATION 135-210, ARMY NATIONAL GUARD AND RESERVES: ORDER TO ACTIVE DUTY AS INDIVIDUALS DURING PEACETIME, para. 1-5 (1 Sep. 1994) [hereinafter AR 135-210]. This limitation does not, of course, affect the requirements to complete annual training. *See* DEP'T OF ARMY, REGULATION 135-200, ARMY NATIONAL GUARD AND RESERVES: ACTIVE DUTY FOR TRAINING, ANNUAL TRAINING, AND ACTIVE DUTY FOR SPECIAL WORK OF INDIVIDUAL SOLDIERS, Ch. 3 (1 Sep. 1994) [hereinafter AR 135-200].

[168] The two primary justifications used are Active Duty for Special Work (ADSW) and Temporary Tour of Active Duty (TTAD). ADSW is for the purpose of accomplishing a mission of the Army National Guard (ARNG) or U.S. Army Reserve (USAR). It is NOT for training. AR 135-200, *supra* note 167, at para. 6-2. TTAD, on the other hand, is for the accomplishment of an "Active Army, a Unified or Specified Command, Office of the Joint Chiefs of Staff (OJCS), or an active force mission . . ." AR 135-210, *supra* note 167, at para. 3-2. TTAD is used most often for obvious reasons.

[169] The general limit on orders to active duty is 180 days. AR 135-200, *supra* note 167, at para. 1-5. This limit is applied to ADSW. TTAD, however, cannot exceed 139 days without approval from Commander, Personnel Command (PERSCOM). AR 135-210, *supra* note 167, at para. 3-3a(1). It is possible to extend a TTAD past 180 days with Commander, PERSCOM approval. *Id.* at para. 3-3a(2). In practice, I have never seen this done.

[170] For example, when I left the 4th PSYOP Group in June of 1995, the Group was in the process of rotating reserve soldiers assigned to Operation UPHOLD DEMOCRACY in Haiti, who had reached the limits of their tours. This created some problems because the mission was almost
(Continued on Next Page)

tend to devalue the PSYOP assets in the eye of planners who need to KNOW that they will have a particular asset when they need it. Underscoring this point is a recommendation made after the Gulf War. Despite the success of PSYOP and successful reserve support, the Department of Defense recommended that the "Active and RC force mix . . . be evaluated to ensure sufficient PSYOP assets are available to provide support should more than one contingency occur."[171]

2. Media Available

The PSYOP assets of the Army have an impressive array of media available to them to convey the themes and messages of the PSYOP campaign. While the full technical details of these capabilities is outside the scope of this paper, and in some cases classified, a brief recitation should give a flavor for the technologically advanced nature of the equipment and the capabilities that rival civilian media outlets.

a. Printing/Publications

The 4th PSYOP Group has a full printing company organized within its PSYOP Dissemination Battalion (PDB). Their capabilities include the full range of skills one

(Continued)

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entirely supported by reservists at that point. Consequently, the turnover adversely affected cultural contacts and experience available in-country.

[171] GULF WAR REPORT, *supra* note 92, at 538.

would expect from a small civilian printing firm. The unit divides printing assets into two capabilities -- "heavy" and "light" print.[172] These both have the capability to print in multi-color, use computer-generated images and typesetting, and incorporate photographs.[173] Heavy print also has a full bindery section for the production of books, brochures, and other bound products.[174] This unit has produced leaflets in the millions for recent operations.[175] They also produce newspapers, booklets, handbills, posters, and other printed products.

b. Audio & Video

In addition to hard copy printing, the Group has a Broadcast Company also organized under the PDB. This unit has a full media production facility at Fort Bragg which produces professional video and audio products.[176] The capabilities of this media production center rival civilian

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[172] Heavy print is located at Fort Bragg and "[p]roduces, in high volume, printed products (leaflets, newspapers, magazines, books, posters) . . . to be transported to supported commands for dissemination." FM 33-1, *supra* note 115, at 4-7. Light print deploys world-wide using one of three light or three modular print systems. *Id.* Additionally, PSYOP printers may be deployed to operate local or host nation equipment. *Id.*

[173] *See* CAPABILITIES HANDBOOK, *supra* note 113, at 46-54.

[174] *Id.* at 50.

[175] Heavy print is actually able to produce millions of leaflets *per day* when required. *Id.* at 50. During the Gulf War, the unit produced Twenty-nine million leaflets containing thirty-three different messages. GULF WAR REPORT, *supra* note 92, at 537.

[176] *See* FM 33-1, *supra*, note 115, at 4-7.

media outlets and include use of inputs from various formats (35 mm slides, computer graphics, video tape, etc.), full computer graphics and special effects, high speed tape duplication, and frequency expanders to allow audio transmission over telephone lines.[177] In addition, the Broadcast Company has deployable television and radio transmitters to broadcast these products.[178]

c. Delivery Systems

The PSYOP Group delivers PSYOP products in a variety of ways. There are various air delivery methods, such as leaflet bombs, artillery, or air drops using Air Force or Army Aircraft to distribute paper products such as leaflets, handbills, and booklets.[179] Additionally, the Group's Tactical Battalion can deliver these items on the ground while deployed forward with other special operations or conventional forces.

In addition to the PDB's organic broadcast capability, the Tactical Battalion's teams can play recordings through soldier, vehicle, or aircraft-mounted loudspeaker systems, or language-capable soldiers may read a script over these

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[177] CAPABILITIES HANDBOOK, supra note 113, at 41-43.

[178] Id. at 32-44.

[179] For example, in the Gulf War, leaflets were delivered by such diverse systems as artillery, C-130 cargo planes, F-16 fighter planes, and B-52 bombers. GULF WAR REPORT, supra note 92, at 537.

same systems.[180] Augmenting these Group assets is the Air National Guard, which has four specially equipped C-130 aircraft known as "Commando Solo." These aircraft are equipped to broadcast radio signals as well as jam other signals.[181] This capability of broadcasting from an aircraft allows the broadcast of messages (at least within certain ranges), without ever entering the airspace or territory of another country. In addition, repeater systems are being developed to extend the broadcast range of all radio broadcast systems.[182]

Finally, video messages can be broadcast by similar means as civilian television outlets. The PDB has organic assets, augmented by Commando Solo, which are capable of full color television broadcasting and jamming. Satellite broadcast would have to be coordinated with other national agencies.

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[180] *See* CAPABILITIES HANDBOOK, *supra* note 113, at 20-23. *See also*, Downing, *supra* note 2, at 26 (discussing the loudspeaker support to operations in the Gulf War and Somalia).

[181] *See* Douglas Waller, *America's Persuader In The Sky*, TIME, Aug. 21, 1995, at 43; Colonel Jeffrey B. Jones & Lieutenant Colonel Michael P. Mathews, *PSYOP Support to the Warfighting CINC*, JOINT FORCE Q., Summer 1995, at 28, 30.

[182] Scott R. Gourley, *U.S. Army Special Operations Command*, ARMY, Mar. 1996, at 22, 25-26.

D. Current Doctrine & Limitations

PSYOP doctrine has greatly improved over the last decade. There is now published Joint Doctrine.[183] Among other things, this doctrine requires all commanders to consider PSYOP's value and utility in their planning.[184] At the operational and tactical level, commanders have begun to do a much better job of incorporating and benefiting from PSYOP's skills and expertise. However, decision makers continue to limit PSYOP's role to the military arena. I propose a true strategic role for PSYOP. As background, however, I will briefly outline the current support to the Regional CINCs, the current approval process, and several limitations in the employment of PSYOP.

1. Regionalization of U.S. Forces

One of the lessons of World War II was that parochialism between the different branches of the armed forces was a detractor to our ability to defend the nation.[185] In 1947, the Congress began a trend toward directing unity of effort between these branches of

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[183] JOINT PUB. 3-53, *supra* note 111.

[184] *Id.* at II-6.

[185] *See* NEVINS & COMMAGER, *supra* note 54, at 477-78 ("[World War II] had shown an urgent need for unification of forces and staff. . . . Unfortunately, it proved easier to devise paper plans for unification than to make them work. . . . the new department became cumbrously large, and the three forces wrangled jealously over appropriations and power.").

service.[186] This trend continued in 1986 when Congress

passed The Goldwater-Nichols Defense Reorganization Act.[187]

The overall objective of this Act was to strengthen and

improve the efficiency of the Department of Defense in a

number of ways.[188] In order to accomplish this, the Act

greatly strengthened the position of the Chairman of the

Joint Chiefs of Staff (CJCS).[189] It also strengthened the

role of theater commands, which are now called Unified

Combatant Commands.[190] The defense establishment refers to

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[186] The initial legislation in this change was the National Security Act of 1947, 61 Stat. 496 (codified as amended at 50 U.S.C. § 401 et. seq.). As originally enacted, the Act did not contemplate the exact structure we have today, but stated as its goal to integrate the Armed forces "into an efficient team of land, naval, and air forces." 50 U.S.C. § 401 (1995)(Original language reprinted in the notes to the current sections). It was this same goal which the Congress sought to further in the Goldwater-Nichols Defense Reorganization Act. *See infra* note 188.

[187] Pub. L. 99-433, 100 Stat. 1017 (codified as amended at 10 U.S.C. §§ 161 - 168 (Supp. 1995)).

[188] The Goldwater-Nichols Act had a number of purposes. Most important for my discussion, however, is that the bill was to: ". . . (6) enhance the warfighting capabilities of U.S. military forces by strengthening the authority of the unified and specified combatant commanders; (7) increase the decentralization of authority within the Department of Defense; (8) clarify the operational chain of command; (9) reduce and streamline the defense bureaucracy; . . . (12) provide for the more efficient use of resources; . . . and (15) amend title 10, United States Code, to make it fully consistent with the basic principles of the National Security Act of 1947." S. REP. No. 280, 99th Cong., 2nd Sess. (1986), *reprinted in* 1986 U.S.C.C.A.N. 2168.

[189] *See* 10 U.S.C. § 163 (Supp. 1995).

[190] *See* 10 U.S.C. §§ 164 & 166 (Supp. 1995). There are two types of combatant commands defined in the statute. "The term 'unified combatant command' means a military command which has broad, continuing missions and which is composed of forces from two or more military departments." 10 U.S.C. § 161(c)(1) (Supp. 1995). A "specified combatant command" is defined similarly except that it "is normally composed of forces from a
(Continued on Next Page)

the commanders of these organizations as Commanders in Chief or CINCs.

Part of this change in the combatant commands was to strengthen their regional orientation. Goldwater-Nichols specifically directs CJCS to "review the missions, responsibilities *(including geographic boundaries)*, and force structure of each combatant command; . . ."[191] The resulting structure breaks the world into five regions. Each region is assigned a 4-Star Commander-in-Chief (CINC).[192] In addition to these so-called "Regional CINCs", there are four unified combatant commands that provide some specific type of support world-wide.[193] Among these "Global CINCs" is the United States Special Operations Command.

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single military department." *Id.* at § 161(c)(2). In short, a unified combatant command is a joint command, the specified combatant commands are single service.

[191] 10 U.S.C § 161(b)(1)(A) (Supp. 1995)(emphasis added).

[192] These commands are the United States Atlantic Command (USACOM); United States Central Command (USCENTCOM); United States European Command (USEUCOM); United States Southern Command (USSOUTHCOM); and United States Pacific Command (USPACOM). For a brief discussion of these commands and their functions, *see* INT'L & OPERATIONAL L. DIV., THE JUDGE ADVOCATE GENERAL'S SCHOOL, U.S. ARMY, JA 422, OPERATIONAL LAW HANDBOOK 2-3 (1995) [hereinafter OPLAW HANDBOOK]. For more detail, *see* DEP'T OF DEFENSE, ARMED FORCES STAFF COLLEGE PUBLICATION 1, THE JOINT STAFF OFFICER'S GUIDE 2-17 - 2-42 (1993) [hereinafter, JOINT GUIDE].

[193] These are the United States Transportation Command (TRANSCOM), United States Space Command (SPACECOM), United States Strategic Command (STRATCOM), and United States Special Operations Command (USSOCOM). For a brief discussion of these commands and their roles, *see* OPLAW HANDBOOK, *supra* note 192, at 2-3 - 2-4. For more detail, *see* JOINT GUIDE, *supra* note 192, at 2-33 - 2-42.

The Regional CINCs, while required to coordinate with the State Department and its Ambassadors, have enormous power in their region. They are to "provide strategic direction to all U.S. military operations within their designated [area of responsibility]."[194] Their focus, then, is not on national security as a whole, but on U.S. national security interests within their region. To accomplish this, they should have the military assets needed to protect these interests. While they have control over substantial physical forces, their connection to ideological forces is sorely lacking.

2. Current Support to the Regional CINCs

CINC, USSOCOM has combatant command over all dedicated Army and Air Force PSYOP forces in CONUS.[195] As part of his responsibilities, CINC, USSOCOM must support the other CINCs' PSYOP requirements "[w]ithin his capabilities."[196] Thus, relative to the regional CINCs, PSYOP is a support unit commanded by another CINC. Strides have been made, however, to integrate PSYOP into the Regional CINCs' plans.

The 4th PSYOP Group, the only active component group, is now responsible for "contingency support world-wide, . .

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[194] FM 33-1, *supra* note 115, at 5-4.

[195] *Id.* at II-4.

[196] *Id.*

."[197] This includes "coordinating both active and reserve support to CINCs with planning in peacetime, contingency operations, and war."[198] To ease this process, the Group has established forward detachments at European Command (EUCOM), Southern Command (SOUTHCOM), Pacific Command (PACOM), and Combined Field Command (CFC) Korea headquarters.[199] Additionally, all unified commands except EUCOM have "permanently assigned PSYOP staff officers."[200] These mechanisms work to provide the CINC the PSYOP support he needs. However, his support is still subject to the decisions of CINC, USSOCOM until the forces deploy to the theater.[201]

PSYOP Task Forces (POTF) support contingencies. The POTF will "consist of regional, tactical and dissemination assets, ..."[202] The size of the POTF will vary with the

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[197] Jones & Mathews, *supra* note 181, at 30. Note that Colonel Jones and Lieutenant Colonel Mathews are intimately familiar with the operations of the 4th PSYOP Group. Colonel Jones commanded the 8th PSYOP Battalion during the Gulf War and the 4th PSYOP Group from January 1993 through June 1995. Lieutenant Colonel Mathews has served in a variety of positions within the Group, including Group Operations Officer, Executive Officer, and Deputy Commander. Lieutenant Colonel Mathews is currently the commander of the 8th PSYOP Battalion, one of the regional support battalions in the 4th Group.

[198] *Id.*

[199] *Id.* at 31.

[200] *Id.*

[201] *See supra* note 161 (discussing the U.S. Code provisions that give Regional CINCs command of Special Operations Forces in their regions unless the President or Secretary of Defense dictate otherwise).

[202] Jones & Mathews, *supra* note 181, at 30.

size of the operation. This approach provides flexibility

in organization and support. However, it has some problems.

First, support must be coordinated through at least three

levels of command to stand up the POTF.[203] If the PSYOP

coordination is not made early, valuable opportunities to

capitalize on ideological vulnerabilities may be lost.[204]

While this can be partially overcome by contingency plans,

rapidly changing situations can change these plans. Dated

information about the target audience may degrade the

effectiveness of the PSYOP plan. Second, approval of the

PSYOP campaign has to be coordinated up through the chain of

command to the NCA. If this process is not begun quickly,

or if there is not a pre-approved plan, the speed of modern

operations may obviate the issue before the Army can employ

PSYOP.

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[203] *See supra* notes 159-62 and accompanying text. *See also* Figure 2, *supra*.

[204] *See* JOINT PUB. 3-53, *supra* note 111, at I-3 (``Rapid exploitation of PSYOP themes is often critical.''); Downing, *supra* note 2, at 26 (``PSYOP staffs must be included in initial planning to tailor products to the goals of the joint commander and the target audience.'').

3.   *The Current Approval Process*[205]

The approval process is the key to timely employment of psychological operations. It is also an indicator of the level of distrust we have toward these operations. The underlying fact supporting both of these statements is that the PSYOP campaign must be approved before the conduct of any PSYOP.[206]

In peacetime and in conflict, Regional CINCs propose PSYOP programs. CINCs plan and conduct these programs to "support . . . regional objectives, policies, interests, and theater military missions."[207] They then forward these programs through the Chairman of the Joint Chiefs of Staff (CJCS)[208] to the Under Secretary of Defense for Policy (USDP) who coordinates them with "the National Security Council and other [United States Government] USG agencies."[209] The USDP "reviews and approves all PSYOP programs to be conducted

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[205] The approval process in peacetime is detailed in DEP'T OF DEFENSE, DIRECTIVE S-3321.1, OVERT PEACETIME PSYCHOLOGICAL OPERATIONS CONDUCTED BY THE MILITARY SERVICES IN CONTINGENCIES SHORT OF DECLARED WAR (Secret). These programs are sometimes referred to as Overt Peacetime PSYOP Programs (OP^3). While this document is classified, the approval process is not. It is reasonably reflected in unclassified sources. Consequently, my references will be to those sources.

[206] FM 33-1, *supra* note 115, at C-1.

[207] JOINT PUB. 3-53, *supra* note 111, at II-3.

[208] *Id.* at II-2.

[209] *Id.* at II-1.

during peace or in conflict."[210] Peacetime programs are

approved annually. The overall program must be approved

before any specific operations are conducted.[211] In a

contingency, the approval is specific to that operation with

"a PSYOP concept plan which is broad in scope . . .

forwarded from the CINC to the Joint Staff for approval of

overarching themes, objectives, and guidance."[212] Approval

of specific products remains with the CINC. All plans in

peacetime must be coordinated with the appropriate officials

of the Department of State who "provides overall direction,

coordination, and supervision of interdepartmental

activities overseas."[213] This means that the Department of

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[210] *Id. See also*, Jones & Mathews, *supra* note 181, at 31 (Providing a
brief outline of the whole process). Note also that the Under Secretary
of Defense for Policy could, and usually did, delegate his PSYOP
responsibilities to the Assistant Secretary of Defense (Special
Operations/Low Intensity Conflict)(ASD(SO/LIC)). However the
organizational charter for the office of ASD (SO/LIC) has been removed
from the Code of Federal Regulations, saying simply that this
organization (along with several others) "had served the purpose for
which they were intended and are no longer valid." 60 Fed. Reg. 18006
(1995). This change was further reflected in the FY 96 National Defense
Authorization Act where Congress stated, "Section 1211(b)(2) of the
National Defense Authorization Act for Fiscal Years 1988 and 1989 (P.L.
100-180; 101 Stat 1155; 10 U.S.C. 167 note) is amended by striking out
'the Assistant Secretary of Defense for Special Operations and Low
Intensity Conflict' and inserting in lieu thereof 'the official
designated by the Secretary of Defense to have principal responsibility
for matters relating to special operations and low intensity conflict'."
National Defense Authorization Act for Fiscal Year 1996, Pub. L. No.
104-106, § 903(f)(5), 110 Stat. 186, 402 (Feb. 10, 1996). It is unclear
what impact, if any, this change will have.

[211] JOINT PUB. 3-53, *supra* note 111, at IV-5.

[212] Jones & Mathews, *supra* note 181, at 31.

[213] JOINT PUB. 3-53, *supra* note 111, at II-7.

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State "may restrict PSYOP messages and themes" in peacetime operations or in conflict.[214]

The process for a declared state of war lowers approval authority to the Unified Command CINC.[215] This can be further delegated to a JTF commander,[216] although this did not happen in the Gulf War. In peace, conflict, or war, the need for a coordinated effort to ensure effectiveness of messages makes the interagency coordination called for in the approval process critical.

The approval process has gotten mixed reviews for timeliness. In the Gulf War, approval for PSYOP was not obtained until January 1991. This represented a turnaround time of "literally months."[217] In recent operations, the process took only a few days.[218] It is unclear what made the difference in the process. However, the Department of Defense, in reviewing the Gulf War in 1992 cited "significant delays in the approval process" and called for relooking the process to employ PSYOP as early as possible.[219]

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[214] *Id.*

[215] FM 33-1, *supra* note 115, at C-1.

[216] *Id.*

[217] Jones & Mathews, *supra* note 181, at 31.

[218] *Id.* The authors specifically reference Operation RESTORE HOPE.

[219] GULF WAR REPORT, *supra* note 92, at 538.

Any revision of the approval process must address timeliness. The way to improve timeliness is by simplifying the process, reducing the number of players, and using the same players so that they gain experience and efficiency. Thus, one of the key problems to eliminate are the artificial distinctions between peace, conflict, and war that are superimposed over the process. These are unclear now and will get less clear. In the information age, it may not be possible to know when we are at war in the traditional sense.[220] Consequently, we need one process that works efficiently, through people familiar with PSYOP, in a portion of the government that can see "the big picture" of our information strategy. This will provide efficient and effective control, regardless of the nature of the operation. Doing so is crucial now, and is becoming more crucial in the Third Wave. Information acts have legal and political consequences that could embroil the nation in controversy, conflict, or worse. Deciding when and how to act must be a function of the highest levels of our government.

4.   *Major Policy Limitations*

The functions of DOD and limits on activities are often statutory matters.[221] This is not the case with PSYOP. The

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[220] *See* Commander George F. Kraus, Jr., *Information Warfare in 2015*, PROCEEDINGS, Aug. 1995, at 42.

[221] JOINT PUB. 3-53, *supra* note 111, at III-1.

use and conduct of PSYOP is largely policy-based.[222] For

purposes of this paper, there are two key policy

limitations. The first regards PSYOP conducted toward U.S.

citizens. The second regards the nature of messages

conveyed.

>   a.   *U.S. Citizens and Territory*

By definition, PSYOP are directed toward foreign groups

of people in foreign territory.[223] This distinction is not

solely a matter of definition. The definition is ostensibly

driven by a policy decision to not direct these operations

in any way toward U.S. citizens.[224] This is a critical

element for maintaining the trust and confidence of the

American people. The problem is that this policy is only

summarily mentioned or implied in planning documents.[225] It

is not clearly stated in directives signed by the national

command authority. Thus, there are documents talking about

a policy, but there does not appear to be a policy itself.

As information flow increases, controlling our messages

to ensure they are not reaching US citizens will be a

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[222] *Id.*

[223] *See supra* notes 110-16 and accompanying text.

[224] JOINT CHIEF OF STAFF, JOINT STRATEGIC CAPABILITIES PLAN, ANNEX D (PSYCHOLOGICAL
OPERATIONS) (1990) (Secret) (This document summarily states that US
policy restricts virtually all use of PSYOP directed toward U.S.
citizens.).

[225] FM 33-1-1, *supra* note 115 at 2-1 ("In domestic case, the commander
must ensure PSYOP assets are being employed in a dissemination role only
and not to project a PSYOP message.").

challenge. While the danger of this unintentional receipt
of information should be balanced against the national
security interest being pursued when deciding the amount of
risk we can tolerate, the need to establish a coherent
policy with planning factors to consider can only increase
with our citizens' increased access to global information.

b.   Truth Projection

A similar situation exists with the second major
peacetime policy. Under this policy, our PSYOP forces
conduct "truth projection activities intended to inform
foreign groups and populations persuasively."[226] In other
words, we tell the truth, but in ways that support our
position. Truth projection is critical to the success of
PSYOP because the "effectiveness of . . . communication
depends on the perception of the communicator's credibility
and capability to carry out promises or threatened
actions."[227] This policy is also a critical limit for our
citizenry to understand. However, like the domestic PSYOP
limitation, it is based on implication and practical
rationales rather than on a clear statement of principle and
policy from our national command authority.

In sum, PSYOP capabilities are formidable, but the
assets to conduct them are limited. While envisioned to

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[226] JOINT PUB. 3-53, *supra* note 111, at I-5.

[227] *Id.* at I-1.

have a major strategic role, the use of these forces have been likewise limited to the support of military missions only. As the U.S. becomes a Third Wave society, PSYOP forces can be a critical strategic asset to achieve our national security objectives.

IV. The Use of Persuasion: A Strategic Role for PSYOP Forces

Information is on the rise, both in fact and in its stature among the national establishment. Expectations are that the usefulness and power of information will only increase as America continues to become a more knowledge driven society.[228] Indeed, leveraging information will become increasingly important to achieving national security goals. The United States can no longer afford to "pigeon-hole" critical information assets like its military PSYOP capabilities for "military" missions, be they war or other than war.[229] It must incorporate these assets into a strategy that pursues national objectives with all of the means available.[230]

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[228] See supra notes 77-94 and accompanying text.

[229] In JOINT PUB. 3-53, supra note 111, the military cedes the strategic PSYOP field to those "outside the military arena." Id. at I-1. Thankfully, however, the doctrine does reserve the ability to "utilize DOD assets and [have strategic PSYOP programs] be supported by military PSYOP." Id.

[230] The "1985 PSYOP Master Plan was aimed at making DOD PSYOP 'one of the strategic instruments of national security policy' . . ." Parker, supra note 105, at 5. The 1990 Master Plan replaced the 1985 one, but "captures the values of the 1985 Plan, . . . and provides direction to continue the Presidentially directed revitalization." DEP'T OF DEFENSE, (Continued on Next Page)

A. *The Elements of National Power*

A national strategy is a way to focus the power of a nation toward particular goals. It may be defined as "the art and science of developing and using the political, economic, and psychological powers of a nation, together with its armed forces, during peace and war, to secure national objectives."[231] Thus, the four elements of power that support the achievement of national objectives are political, economic, psychological, and military. Of the four, commentators agree that the psychological component is the least developed.[232] Early in the Reagan administration, however, there was a reemphasis on the psychological

(Continued)

DOD PSYOP MASTER PLAN iii (March 1990). Thus, according to the 1990 Plan, "DOD PSYOP [is] one of the strategic instruments of national security policy, . . ." *Id.* at 1. However, this instrument is considered limited to only those activities that are in support of military operations. In the 1990 Plan itself, at the end of the very paragraph where PSYOP is declared a strategic instrument of national security, the Plan limits the vision begun in the 1985 Plan to "melding these capabilities into *military operations* at all levels." *Id.* (emphasis added).

[231] DEP'T OF DEFENSE, JOINT PUBLICATION 1-02, DICTIONARY OF MILITARY AND ASSOCIATED TERMS 255 (23 Mar. 1994) [hereinafter DOD DICTIONARY].

[232] *See, e.g.*, Jeffrey B. Jones, *Theater Information Strategies*, MIL. REV., Nov. 1994, at 48 ("While the political, economic, and military elements are evident in every unified commander's overall strategy, their is seldom much discussion about the informational or psychological element -- the fourth and often overlooked element of national power."); Melvin E. Kreisel, *Psychological Operations: A Strategic Overview, in* ESSAYS ON STRATEGY 53, 55 (1985)("The psychological component is the least developed part of US national strategy.").

component. The focus, however, was on the means to use this power -- that means is information.[233]

The use of information by groups in dealing with each other is not new.[234] Neither is the use of propaganda in conflict.[235] The United States did not enter this fray in any meaningful way, however, until World War II.[236] Following World War II, the United States recognized that it needed to coordinate the use of its information assets to counter the undeniably effective use of information by other nations.[237] In 1953, a major federal agency was formed to manage information. Somehow, however, the link between

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[233] This emphasis on information as a co-equal element of power was apparently made by National Security Advisor, William P. Clark in a speech at Georgetown University in 1982. *See* Richard Halloran, *Reagan Aide Tells of New Strategy on Soviet Threat*, N.Y. TIMES, May 22, 1982, at A1 (discussing the speech itself) and Lord, *supra* note 1, at 20 n.16 (discussing the renewed emphasis in the Reagan administration and the role of Mr. Clark's speech).

[234] Indeed, "[s]ince humans first communicated, . . . they have influenced the behavior of other humans." R.D. McLaurin, *Psychological Operations and National Security*, in MILITARY PROPAGANDA: PSYCHOLOGICAL WARFARE AND OPERATIONS 1, 2 (R. McLaurin ed., 1982).

[235] United States psychological operations "can be dated back at least to the beginnings of the War for Independence. Even before the Declaration of Independence, patriot forces used leaflets against British troops in Boston just before the Battle of Bunker (Breed's) Hill." Stanley Sandler, *Army Psywarriors: A History of U.S. Army Psychological Operations*, SPECIAL WARFARE, Oct. 1992, at 18, 18.

[236] *See* Paddock, *supra* note 107, at 46-47.

[237] McLaurin, *supra* note 234, at 3.

information and using it as a means to exercise national power was lost.[238]

Addressing the psychological element of national power as the informational element of power is growing among commentators.[239] In many ways, this element is becoming the preeminent element of power because it pervades the others. For example, all of the military services have been increasingly focusing on information in developing technologies and doctrine -- both in using information technologies against the enemy and for their own benefit.[240] Similarly, the U.S. economic system increasingly relies on information technologies such as computers. It is not hard to imagine the impact on the American economy if one of these systems was somehow destroyed.[241] Similarly, media

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[238] *Id.* The agency founded was the United States Information Agency (USIA).

[239] *See, e.g.*, George T. Raach & Ilana Kass, *National Power and the Interagency Process*, JOINT FORCE Q., Summer 1995, at 8 ("As a people, we are not entirely comfortable with using force until the other instruments of national power -- economic, diplomatic, political, *and informational* -- have been wielded.")(emphasis added); Jones, *supra* note 232, at 48.

[240] *See supra* notes 90 & 102 and accompanying text.

[241] *See* TOFFLER, *supra* note 9, at 149 ("Imagine what might have occurred if some of Saddam Hussein's nuclear physicists had created for a him a crude electromagnetic pulse warhead and, during the Gulf conflict, an 'info-terrorist" had delivered it to . . . the Wall Street district. The ensuing financial chaos -- with bank transfer networks, stock and bond markets, commodity trading systems, credit card networks, telephone and data transmission lines, Quotron machines, and general commercial communications disrupted or destroyed -- would have sent a financial shock wave across the world. . . . 'An electronic Pearl Harbor is waiting to happen.'").

reports can instantaneously influence internal political processes and external diplomatic processes in the U.S.[242] Opinion, policy, and relationships can all turn on what is said (and not said) in the media.

Information is an influential element of power that can impact all of the others. It has been more than a decade since the Reagan Administration sought to reinvigorate this element of power. The obvious question is whether the U.S. has succeeded in using information power in pursuit of U.S. national security goals. Despite some successes at the operation and tactical levels, the U.S. has failed strategically.

B.   *The National Security Strategy*

The focus of the U.S. national security strategy in the post-Cold War world has changed. No longer is there a simple focus on the Soviet Union and avoiding nuclear devastation.[243] The strategy is now more complex, focusing

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[242] *See, e.g., id.* at 208-09 (Discussing the influence of CNN reporting on the 1992 Presidential Election); Shelton & Vane, *supra* note 5, at 3 ("'We don't win unless CNN says we win.'").

[243] Winters, *supra* note 14, at 60 ("[U]ntil 1990[,] the United States undertook *de facto* and *de jure* military strategies to contain the Soviet threat. Implementing Kennan's containment strategy produced assorted administration-driven monikers such as "massive retaliation" and "new look" (Eisenhower), "flexible response" (Kennedy), "detente"' (Nixon), and "conventional build-up" (Reagan and Bush). Understandably, the United States strategy, plans, and budget myopically focused on countering and staying the course against the single most serious threat to United States security--Soviet (and Chinese) expansionism.").

on the needs of the many regions of the world.[244] This

regional approach requires broad cultural understanding and

language sensitivities to succeed. It also needs

application of the power of information.

The current strategy is titled, "A National Security

Strategy of Engagement and Enlargement."[245] It focuses on

three major objectives: "enhancing our security[,]"

"promoting prosperity at home[,]" and "promoting

democracy."[246] To accomplish these, the strategy "draws upon

a range of political, military, and economic instruments, .

. ."[247] Notable by its absence is any reference to

information as an instrument to secure these objectives.[248]

Deciding whether information should be included requires

more detail regarding the three objectives of the strategy.

The objective of enhancing security includes a number

of subordinate goals. Three are illustrative. The first is

the ability to project and maintain forces to deter and, if

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[244] *See* THE WHITE HOUSE, A NATIONAL SECURITY STRATEGY OF ENGAGEMENT AND ENLARGEMENT
35-44 (1996) [hereinafter NATIONAL SECURITY STRATEGY] (Discussing the
application of the general principles of the national security strategy
to the major regions of the world.)

[245] *Id.*

[246] *Id.* at 11-12.

[247] *Id.* at 11.

[248] In fairness, the version I reviewed was the unclassified version. It
is possible that the classified version of the strategy addresses the
information component. This seems unlikely, however, since the
statement in which the elements are mentioned is simply a bland list
with no attempt to list specific measures which might be classified.

necessary, defeat aggression in "two nearly simultaneous major regional conflicts."[249] The second is "providing a credible overseas presence."[250] Both of these goals focus on deterring as well as defeating aggression.[251] Moreover, they both serve to demonstrate "our commitment to allies and friends, [and] regional stability."[252] The third goal is "contributing to multilateral peace operations."[253] This means, according to the strategy, being ready to "participate in multilateral efforts to resolve regional conflicts and bolster new democratic governments."[254]

Information power could play a critical role in all three of these goals. Credibility overseas and deterring aggression depend on other groups' perceptions of U.S. forces and commitment. Conflict arises from some perceived incompatibility between American ideology and the other group's ideology relative to the situation. While hardware can serve to reinforce American information acts, changing ideological perceptions in favor of its desired position is what the U.S. really needs to accomplish in order to diffuse

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[249] NATIONAL SECURITY STRATEGY, *supra* note 244, at 11.

[250] *Id.* at 13.

[251] *See id.* at 13.

[252] *Id.*

[253] *Id.* at 13.

[254] *Id.*

the situation and provide for a longer-term solution.[255]

Similarly, defeating aggression means the U.S. has to defeat

the aggressor's will to fight.[256] This requires more than

victories on the battlefield. It requires changing

perceptions to affect the opponents ideological calculus[257]

in order to eliminate the ideological conflict or convince

the opposition that further resistance is futile.

Inflicting pain and suffering certainly can affect this

process. However, it is more efficient and effective to aim

directly at the will if that is the true target. Finally,

promoting peace and encouraging democracy are both

ideological goals. Information is the best way to attack in

this situation because the nation's actions aim for what it

really wants to change -- the group's ideology. Altering

this ideology by altering perceptions is the only way to

achieve lasting peace.[258] Information is at least *a* key

element, if not *the* key element of national power that would

enable us to meet these national security goals, yet it is

ignored.

Even in the realm of promoting domestic prosperity,

information is the key. For example, two of the primary

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[255] *See supra* notes 63-76 and accompanying text.

[256] *See supra* notes 36-62 and accompanying text.

[257] *See supra* section II.A.3 for an explanation of what I term
"ideological calculus."

[258] *See supra* notes 69-76 and accompanying text.

goals in this area are enhancing access to foreign markets and promoting sustainable development abroad.[259] Both of these require promoting positive perceptions of the United States, its products, and its impact on the market in question. This is what marketing is all about in the business world. It may be debatable whether the government wants to commit its information power in this area for political reasons. However, it is not debatable that the use of information power could greatly enhance U.S. ability to alter perceptions in ways favorable to its national goals.

Information similarly helps to promote democracy. Democracy is an ideology reflecting a form of government (popular vote), a view of people (all people are created equal), and a view of where governing power comes from (the people).[260] All of these reflect an ideology -- a view of a group, what it believes, and how it relates to others. Consequently, convincing people that democracy works is an ideological issue. Thus, it is an issue where information power is the most appropriate element of national power to employ.

If information power should be applied to the goals of national security, how should it be done? I propose that

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[259] NATIONAL SECURITY STRATEGY, *supra* note 244, at 27-32.

[260] *See supra* notes 47-54 and accompanying text for a discussion of democratic ideology in the context of World War II.

military PSYOP is one asset which can and should be utilized. To discuss this, I will use a strategic analysis model taught at the Army's Command and General Staff College (CGSC).

C.   A Strategic Analysis Model

The CGSC model proposes three criteria to determine whether a particular strategic course of action will be effective.[261] The first issue is whether the course of action is suitable to the strategic goal -- in other words, will it work?[262] The second criteria is whether the course of action is feasible. This asks whether the nation can support the action logistically.[263] The final criterion is whether the course of action is acceptable. This is largely subjective, but seeks to determine whether the course of action will be acceptable to the American People and their representatives in the Congress.[264] The course of action I propose for analysis under this model is the use of military psychological operations forces in the conduct of information operations in pursuit of all appropriate national security goals, rather than just in support of military operations.

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[261] Major Robert B. Adolph, Jr., *Strategic Rationale for SOF*, MIL. REV., Apr. 1992, at 37, 45.

[262] *Id.* at 45-46.

[263] *Id.* at 46.

[264] *Id.*

D. Military PSYOP in National Strategy

The vision for military PSYOP is that it should be a true national security asset.[265] Doctrinally, military PSYOP can legitimately have a strategic role.[266] However, the U.S. has not used it in this role. It needs to. Military PSYOP is suitable to the pursuit of national security goals (in some cases uniquely so), it can be feasible, and, properly controlled, it will be acceptable.

PSYOP units are suitable to support operations in pursuit of national security objectives. The units have modern media capabilities that can access audiences through a variety of technologies in developed, less developed, or undeveloped areas.[267] The soldiers have regional and language expertise that can ensure themes and products best meet the needs of the national security objective in that particular region of the world.[268] The hardware is military in nature which means it is transportable and capable of

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[265] *See* sources cited *supra* note 230. *See also* Jones & Mathews, supra note 181, at 29 ("*Strategic* PSYOP . . . is carried out largely by civilian agencies *but may utilize or be supported by military PSYOP assets.*")(emphasis added); Paddock, *supra* note 107, at 54.

[266] JOINT PUB. 3-53, *supra* note 111, at I-1; FM 33-1-1, *supra* note 115 at 2-4.

[267] *See supra* notes 172-82 and accompanying text.

[268] *See supra* notes 149-52 and accompanying text. The 4th PSYOP Group runs its own language lab to supplement, improve, and maintain the language proficiency its soldiers obtain in their advanced individual training (AIT).

operation in varied environments.[269]   The psychological

operators are soldiers trained to deploy to, live in, and

work in sparse environments.   Moreover, the soldiers are

volunteers who have chosen to serve their country.   Thus,

they are not only ready and able, but willing to do what it

takes to protect the nation's interests.   All of these make

PSYOP units eminently suitable to conduct operations world-

wide in pursuit of national security objectives regardless

of whether or not the U.S. is conducting a concurrent

military operation.

It is also feasible to utilize PSYOP units in this

manner.   PSYOP units can deploy in small teams.[270]   Their

equipment is relatively low cost to procure and maintain.

The amount of assets needed to deploy PSYOP forces is

considerably less than conventional military forces.[271]   In

terms of effectiveness for the cost, PSYOP is a bargain when

compared to other operations.   The only issue with regard to

feasibility is the limited PSYOP assets currently in the

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[269] *See* CAPABILITIES HANDBOOK, *supra* note 113 (discussing the various
methods to deploy each piece of equipment.).

[270] For example, the military could deploy a PSYOP Airmobile
Dissemination System (PAMDIS) consisting of one non-commissioned officer
and four to six enlisted soldiers. The PAMDIS fits aboard one C-141 and
would have the capability to broadcast AM and FM radio, VHF and UHF
television, conduct loudspeaker operations, and support leaflet
operations. FM 33-1-1, *supra* note 115, at H-1.

[271] *Cf.* CAPABILITIES HANDBOOK, *supra* note 113 which describes the air assets
needed to transport each PSYOP system.

Army.[272] However, the limited assets are a force structure

choice, not a true limitation on PSYOP. If the U.S. chose

to fund sufficient assets, it would reduce or eliminate

problems of feasibility.

Acceptability to the American people is perhaps the

biggest question. Americans' mistrust of propaganda and

psychological techniques has been previously mentioned.[273]

Techniques that smack of mind-bending or overcoming the free

will of other peoples seem inapposite to democratic

ideals.[274] Thus, use of these assets may raise concerns;

concerns that may be aggravated by the potential legal and

political consequences of information acts that are explored

in the next section. However, the American people will

probably support these types of operations if they are

properly understood. Equally important, however, the

political leadership must properly integrate PSYOP so that

they are clearly supporting recognized national interests.

Finally, PSYOP must be properly controlled to ease the fears

of American citizens and assure them that the assets are

being used within bounds that they can accept.

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[272] *See supra* notes 145-62 and accompanying text.

[273] *See supra* notes 2 & 109 and accompanying text.

[274] *See* Barrett, *supra* note 1, at 65. *Cf.* Ladislav Bittman, *The Use of Disinformation by Democracies*, 4 INT'L J. OF INTELLIGENCE AND COUNTERINTELLIGENCE 243 (1990) ("The contradictions between democratic principles and the need for secrecy in certain foreign policies continue to be debated. So does the controversy over whether *disinformation*, a technique of covert action, is a proper tool for a democratic country like the United States.").

Even so, the concerns raised when considering feasibility and acceptability in the CGSC model are legitimate and need to be addressed if the U.S. is to routinely use military PSYOP assets strategically. In the next section, I propose a revision of national controls to help alleviate fears of misuse from U.S. citizens. This system will also ensure integration of military PSYOP into an overall information strategy. Finally, it will ensure the conduct of proper PSYOP actions that will truly support national security goals set by proper constitutional authority. In the final section, I propose a change in PSYOP force structure that will ensure that these missions remain feasible, that is supportable, by the assets within the United States Army.

V.   The Power of Persuasion: The Need for Effective National Control

Using PSYOP as a true strategic asset raises two issues regarding control. First, the U.S. needs to formalize the limits on the use of PSYOP so that they are clear, consolidated, and available to all conducting (or overseeing the conduct) of these operations. Second, it is critical to establish a single agency that has overall control of information operations among all agencies, including military PSYOP. This will allow full integration of PSYOP into a coherent strategy, while providing effective and efficient national control over these powerful assets. What

makes control issues critical are the political and legal ramifications of information acts.

A. Legal Consequences of Using Information Power

Consideration of the legality of information acts needs to begin with a reconsideration of the concepts of sovereignty and aggression that form the foundation of many international law limits. The rising tide of information will cause cross-currents impacting in both areas. These cross-currents should caution us to act advisedly. Additionally, whether or not an information act is considered aggression could have fallout in the U.S. constitutional system as to which branch of the government should be deciding to use this information power. Despite the potentially serious outcomes, the Executive should maintain control over these foreign affairs assets. However, I recommend a statute enacted by the Congress to maximize the legitimacy of the President's actions. Moreover, I recommend an executive order to clarify and consolidate the policies for the use and execution of PSYOP.

1. Revisiting Ideas of Sovereignty & Aggression

As previously asserted, conflict is about ideology and perception has tremendous power to shape and influence this ideology.[275] This power of perception can be highly useful

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[275] See supra notes 36-76 and accompanying text.

in influencing other nations to behave in accord with U.S. wishes in order to avoid conflict, end conflict, or simply improve U.S. national security.[276] With satellite links, computer networks, high power radios, mobile broadcast repeater stations, and other communications enhancements, this nation can now communicate its persuasive messages more easily and powerfully than ever.[277] From a legal viewpoint, the starting point to consider whether it is a good idea for us to use this capability begins with considering how the actions fit into the concepts of sovereignty and aggression under international law.

a.   *The Concept of Sovereignty*

The idea of sovereignty is one of the most jealously guarded concepts in international law.[278] Despite the decline in truly independent sovereign action engendered by the proliferation of treaties and by technology,[279] states

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[276] *See supra* notes 63-76 & 244-60 and accompanying text.

[277] *See supra* notes 77-100 and accompanying text.

[278] *See* WERNER LEVI, CONTEMPORARY INTERNATIONAL LAW: A CONCISE INTRODUCTION 87-88 (1979) ("Governments . . . rely heavily upon [sovereignty.] . . . Paradoxically, powerful states rely on it to perpetuate their predominance, while weak states rely on it to protect their personality against violations by the powerful states, . . . States are unanimous in praise of sovereignty -- which hinders none from interpreting it expediently to serve political purposes.").

[279] *Id.* at 91 & 99. *See also*, TOFFLER, *supra* note 9, at 24 & 243.

cling to the concept if for no other reason than that it is politically convenient.[280]

At its irreducible minimum, sovereignty means that a state has the "unquestioned right to exercise sovereign authority throughout the extent of its territory."[281] This being said, what exactly is meant by "territory" has generated much discussion in international law.[282] The control has been extended to the airspace over the physical land that the nation-state occupies.[283] This right to sovereignty is also reflected in the right of control over what are called territorial seas.[284]

A violation of sovereignty in the visual sense is easy to conceptualize -- soldiers or weapons physically entering

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[280] *See* LEVI, *supra* note 278, at 97-99 ("The political usefulness of the institution of sovereignty in a nation-state system will guarantee its perpetuation for a long time.").

[281] GERHARD VON GLAHN, LAW AMONG NATIONS 367 (6th Ed. 1992).

[282] *Id.*

[283] *See* Convention on International Civil Aviation (Chicago Convention, *opened for signature* Dec. 7, 1944, art. 2 & 3, 61 Stat. 1180, 15 U.N.T.S. 295, *reprinted in* DA PAM. 27-24, *supra* note 8, at 3-61; VON GLAHN, *supra* note 281, at 406 ("There can be no question today about the legal status of national airspace: states have complete and exclusive sovereignty over the air above their territories. . . ."). *See also* Lieutenant Colonel Thomas A. Geraci, *Overflight, Landing Rights, Customs, and Clearances*, 37 AIR FORCE L. REV. 155 (1994) ("[I]t is a basic tenet of international law that every state has complete and exclusive sovereignty over the airspace above its territory.").

[284] Convention on the Territorial Sea and the Contiguous Zone, *opened for signature* Apr. 29, 1958, art. 1, 2 U.S.T. 1606, 516 U.N.T.S. 205, *reprinted in* DA PAM 27-24, *supra* note 8, at 3-75. This convention went into force in the United States on September 10, 1964.

the territory (territorial seas or airspace) of another nation. What happens when a foreign state enters electronically? Is this the same thing and does it have the same effect?

When one looks past the territorial aspect of sovereignty, it becomes apparent how technological changes cause problems. Since the advent of radio, for example, broadcasts into other countries have been looked upon as implicating sovereignty.[285] That is because the concept not only includes control over the territory, but independence of action within it.[286] In fact, the United Nations Charter has formalized this aspect protecting both "territorial integrity" and "political independence."[287] While the charter deals with protecting these aspects from the threat or use of force, the underlying premise is "that a sovereign state is accorded the right to shape its cultural, social,

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[285] VON GLAHN, *supra* note 281, at 418-421 (discussing the attempts to control radio communications so that they "avoid interference with the communications services of all contracting governments or agencies authorized by them.").

[286] MARK W. JANIS, AN INTRODUCTION TO INTERNATIONAL LAW 122 (1988) ("A sovereign state is one that is free to independently govern its own population in its own territory and set its own foreign policy."); LEVI, *supra* note 278, at 91 ("Respect for a state's sovereignty requires that other states do not interfere in its internal affairs, including the internal aspects of foreign policymaking.").

[287] The Charter provides that "[a]ll members shall refrain in their international relations from the threat or use of force against the territorial integrity or political independence of any state . . . ." U.N. CHARTER, *supra* note 8, art. 2, ¶ 4, *reprinted in* DA PAM. 27-24, *supra* note 8, at 3-2.

economic, and political life as it wishes, ..."[288]
Despite this, nations have attempted for a variety of
reasons to protect their own interests or the interests of
others within the borders of other sovereign states.[289]

The problem is that there is some flexibility in the
concept of sovereignty. As treaties proliferate and the
practice of states establish customary norms of behavior in
international law, precisely what matters are solely within
the internal purview of the state may change.[290] For
example, the advent of human rights law has begun a fairly
major movement, of which the U.S. has been a part, to
intervene in the affairs of other states for humanitarian
reasons.[291] As the world becomes more interconnected and
American capability to communicate and interact between
nations becomes more and more broad based, what states
consider "internal" will almost assuredly shrink. Can a
nation legally intervene electronically, through PSYOP, in a
communist regime to promote democracy because it feels
democracy is better for the people? Can a nation legally
jam and superimpose its news over state-sponsored news in

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[288] ANN VAN WYNEN THOMAS & A.J. THOMAS, JR., THE CONCEPT OF AGGRESSION IN
INTERNATIONAL LAW 83 (1972).

[289] See LEVI, supra note 278, at 91-93.

[290] See id. at 91.

[291] See RESTATEMENT (THIRD) OF THE FOREIGN RELATIONS LAW OF THE UNITED STATES § 703
cmt. e & reporter's note 8 (Discussing several theories that are
increasingly accepted as authorizing humanitarian intervention.).

another nation because that nation's portrayal of the first

state is inaccurate or biased? Without discussing the

relative merit of such intervention, it seems clear that

these actions violate a strict interpretation of

sovereignty, at least defined as I have as territorial

integrity and independence of action within that territory.

The use of sovereignty as a legal concept against the U.S.

in international law will surely increase as it increases

its information capability and use.[292] This cry of foul will

most likely come from those who do not have similar

capabilities. It is precisely this type of political

usefulness that the concept of sovereignty has been

jealously guarded for, despite its diminished power.[293]

In a moral sense, America may justify ideological

interference in other nations and may view sovereignty as an

antiquated concept that needs to be pushed aside for the

greater good of international society and the global

marketplace. The government should consider, however, that

the U.S. is probably the most vulnerable nation on earth to

media-based propaganda.[294] In fact, other governments most

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[292] Technology has always engendered changes in the international law
surrounding sovereignty. For example, sovereignty over airspace was a
result of the airplane and the many telecommunications conventions have
been the result of radio and television communications. *See* VON GLAHN,
supra note 281, at 405 & 418.

[293] *See* LEVI, *supra* note 278, at 99 ("The evidence is clear that states
find the survival of sovereignty most useful as a political and legal
tool. in full awareness of its drawbacks . . .").

[294] *Cf.*, TOFFLER, *supra* note 9, at 147-151 (discussing the vulnerability
of U.S. "knowledge" assets); *Id.* at 208-09 (discussing the power of the
(Continued on Next Page)

often do not need their own assets, they can simply use America's open media against it.[295]   Because of this, U.S. leaders need to rethink and recommit to an enhanced concept of sovereignty.   Because of America's vulnerability, strengthening sovereignty as a legal concept between nations helps the U.S. to seek international remedies, short of using elements of its own national power, if another nation attempts to undermine U.S. internal affairs.   Still, protecting U.S. interests may require attempts to influence perceptions in other states.   Doing so, however, may subject the nation to legal and political repercussions within the community of nations.   Balancing national security interests against the potential ramifications in the international community requires the decision of the highest officials in the U.S. government.   This is particularly true when U.S. actions may be viewed as aggression.

b.   Defining Aggression

Beginning in the late nineteenth century, nations began attempting to limit war, prompted by the advent of mass armies and the continual growth in the efficiency of weapon

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media in this country); and Eliot A. Cohen, *A Revolution in Warfare*, FOREIGN AFFAIRS, Mar.-Apr. 1996, at 37 (discussing the vulnerability of the United States, as an information-based society, to information-based attack).

[295] *Cf.* TOFFLER, *supra* note 9, at 175 ("But win, lose, or draw, the media . . . will be a prime weapon for Third Wave combatants in both the wars and anti-wars of the future, a key component of knowledge strategy.").

systems.[296] The focus quickly became renouncing not all war,

but *aggressive* war. The culmination of this effort was the

Kellogg-Briand Pact of 1928.[297] The difficulty was creating

a mechanism to enforce this renunciation. Following World

War II and the failure of the League of Nations, the United

Nations became that mechanism and incorporated and expanded

on many ideas about limiting war within its Charter.[298] This

remains the situation today. Thus, there are now two types

of force -- defensive and aggressive.[299] The first is

permissible, the other has been asserted since the War

Crimes tribunals at Nuremberg to be illegal.[300] The focus,

then, in conflict is the concept of aggression.

The difficulties with this concept are several. The

first and most fundamental is that no one really agrees on

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[296] VON GLAHN, *supra* note 281, at 670.

[297] *Id.* at 671. It should be noted that Kellogg -Briand "was not
intended to abolish the institution of war as such, for under its terms,
resort to war was still allowed in legally permissible self-defense and
as an instrument of collective action to restrain an aggressor." *Id.*

[298] *Id.* at 674.

[299] *Id.* at 675.

[300] *Id.*, *quoting International Military Tribunal (Nuremberg) Judgment and
Sentences*, 43 AM. J. INT'L L. 168 (1949) ("'To initiate a war of
aggression, therefore, is not only an international crime; it is the
supreme international crime differing only from other war crimes in that
it contains within itself the accumulated evil of the whole.'").
Specifically, the Nuremberg Tribunal's charter defined "planning,
preparation, initiation or waging of a war of aggression" a crime
against peace. CHARTER OF THE INTERNATIONAL MILITARY TRIBUNAL, Oct. 6, 1945, 59
Stat. 1546.

what the term means,[301] at least in the sense of enforceably

prohibiting certain conduct. Second, the UN charter

provision preserving the right of self-defense[302] is

interpreted by many nations (including the United States) as

allowing anticipatory self-defense.[303] Other nations view

this type of anticipatory attack as aggression. Finally,

the United Nations Charter *authorizes* the use of force by

the security council to "restore international peace and

security"[304] if the Council determines "the existence of . .

. [an] act of aggression . . ." Thus, the meaning of

aggression is critical.

To assist in the Security Council's efforts, the UN

General Assembly adopted a definition of aggression.[305] It

defines aggression generally as "the use of armed force by a

State against the sovereignty, territorial integrity or

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[301] *Id.* at 676 ("Until now, the present writer believes, no generally *binding* definition of what is meant by aggression has come into being, despite the General Assembly's approval of its Special Committees definition . . .").

[302] UN CHARTER, *supra* note 8, art. 51.

[303] Anticipatory self-defense is a concept "[u]nder existing customary international law, [whereby] states do not always have to wait until after an attack has been absorbed to undertake self-defense. Rather, where the threat is sufficiently imminent in point of time, they can choose to strike first, providing, of course, that the strike is within the parameters of discrimination, proportionality, and military necessity." Louis Rene Beres, *The Legal meaning of Terrorism for the Military Commander*, 11 CONN. J. INT'L L. 1, 12-13 (1995).

[304] UN CHARTER, *supra* note 8, art. 42.

[305] *Definition of Aggression*, U.N.G.A. Res. 3314 (XXIX) (1975), *reprinted in* 69 AM. J. INT'L L. 480 (1975).

political independence of another State, or in any other manner inconsistent with the Charter of the United Nations, as set out in this definition."[306] The resolution goes on to list a number of acts that serve as *prima facie* evidence of aggression including such things as invasion, bombardment, and blockade.[307] Article 4 quickly goes on to add, however, that this list is not exhaustive.[308] Further, Article 6 states that the definition should not be construed "as in any way enlarging or diminishing the scope of the Charter, including its provisions concerning cases in which the use of force is lawful."[309] This preserves the concept of self-defense, including the controversy over anticipatory self-defense. Still another problem with this definition, is that it does not address the situation where the use of force is not conducted by a state. Most important when considering this definition, however, is that it is merely guidance.[310] It is not a binding rule, but was essentially put forward to help the Security Council in its role of

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[306] *Id.* at art. 1, 69 AM. J. INT'L L. at 481.

[307] *Id.* at art. 3, 69 AM. J. INT'L L. at 482.

[308] *Id.* at art. 4, 69 AM. J. INT'L L. at 482 ("The acts enumerated above are not exhaustive and the Security Council may determine that other acts constitute aggression under the provisions of the Charter.").

[309] *Id.* at art. 6, 69 AM. J. INT'L L. at 483.

[310] The resolution "*recommends* that [the Security Council] should, as appropriate, take account of that Definition *as guidance* in determining, in accordance with the Charter, the existence of an act of aggression." *Id.* at item 4, 69 AM. J. INT'L L. at 480 (emphasis added).

determining the existence of an act of aggression pursuant to the Charter.[311]

c. Information as Aggression

The coming wave of information is sure to change this conception of aggression. The UN definition at least reflects the consensus of nations as to the type of things that can constitute aggression. One of these is the use of armed force against the political independence of another state.[312] Surely, it will not be long before the use of information assets will be considered the use of information weapons, particularly when used to influence the political posture of another nation. In fact, considering the use of information has been found to be an integral part of waging a war of aggression.

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[311] Professor von Glahn asserts that the definition is not binding and states that "[i]t should be kept in mind that General Assembly resolutions do not create obligatory rules of international law." VON GLAHN, *supra* note 281, at 676-78. Others, however, disagree, since the definition "is the most recent and most widely (albeit not universally) accepted." DINSTEIN, *supra* note 15, at 120-21. As such, it is at least arguably customary international law. In fact, "[a]t least one paragraph of the definition, namely, Article 3(g) . . ., has been held by the International Court of Justice, in the *Nicaragua* case of 1986, to mirror customary international law." *Id.* at 121, *citing Case Concerning Military and Paramilitary Activities in and against Nicaragua* (Merits), 1986 I.C.J. 14, 103. Article 3(g) is part of the listed acts of aggression in the UN Definition. It prohibits the "sending by or on behalf of a State of armed bands, groups, irregulars or mercenaries, which carry out acts of armed force against another State . . ." *Definition of Aggression, supra* note 305, art. 3(g), 69 AM. J. INT'L L. at 482.

[312] *Definition of Aggression, supra* note 305, art. 1, 69 AM. J. INT'L L. at 481.

In the trials at Nuremberg, it was seen that the Nazi

propaganda machine was one of the most powerful weapons in

the German arsenal. It was this "weapon" that promoted the

actions of the Nazis. Consequently, the use of propaganda

was considered part of the conspiracy to plan, prepare and

conduct a war of aggression.[313]

Additionally, during the debate leading up to the UN

Definition of Aggression, a concept surfaced that extends

aggression to include information acts. This concept was

labeled "ideological aggression." While there was

insufficient support to include this idea in the UN

definition,[314] there is at least a good faith basis for

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[313] *See* I TRIAL OF THE MAJOR WAR CRIMINALS BEFORE THE INTERNATIONAL MILITARY TRIBUNAL
30-31, 293-294 (1947) (discussing propaganda as one of the
"opportunistic methods" used by the Nazi conspirators and the indictment
of Rosenberg as the party "ideologist"). Additionally, the advocating
of the so-called "final solution" was considered part and parcel of
"crimes against humanity" when considering the crimes of Streicher. *See
id.* at 302. In some instances, it appears that the tribunal did not
consider propaganda alone to be enough for conviction. *See id.* at 336-
38 (acquitting Herr Fritzsche, finding that although he "made strong
statements of a propagandistic nature in his broadcasts[,] the Tribunal
is not prepared to hold that they were intended to incite the German
people to commit atrocities . . . .").

[314] *See* VON GLAHN, *supra* note 281, at 677 ("[N]o agreement was achieved on
whether any definition of *aggression* ought not to include what might be
termed *indirect aggression*, such as conspiracies organized abroad or
ideological propaganda."); JULIUS STONE, AGGRESSION AND WORLD ORDER 59-60
(discussing the disagreements over ideological aggression during some of
the earlier discussion in the 1950s and 1960's that led eventually to
the UN definition.).

including it in a charge of a violation of international law

based on precedent before international organizations.[315]

There is no generally accepted definition of

ideological aggression. However, those who do define it

tend to define it in terms of the means by which you obtain

its generally accepted object, that is "the actual or

intended imposition of an ideology."[316] Given the definition

of ideology discussed previously and the influence of

perception on it, the methods considered aggressive in this

concept are those that are "adapted to the molding of the

thought processes of the people of a state so as to maintain

the condition of things in the state intact or to effect a

change in the condition of things in that state so as to

accord with the aggressor's wishes."[317] Ideological

aggression then "is the spreading of ideas intentionally and

deliberately so as to manipulate by symbols controversial

attitudes and positions."[318] A review of the definition of

PSYOP and its capabilities discussed above should evidence

remarkable similarities to the reader.[319]

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[315] *See* THOMAS & THOMAS, *supra* note 288, at 85-88 (Discussing a number of
complaints made to a variety of international organizations based upon
hostile propaganda.).

[316] *Id.* at 83.

[317] *Id.* at 83-84.

[318] *Id.* at 84.

[319] *See supra* notes 110-11 and accompanying text discussing the
definition of PSYOP and *supra* notes 127-33 and accompanying text
discussing the capabilities of PSYOP.

The discussion of this concept goes on to discuss it in terms of propaganda. In this classical sense of ideological aggression, there were considered three types of propaganda that fell within the definition. The first is war-mongering propaganda which essentially was urging the other state to be the first to commit an act of war by declaration, invasion, blockade, etc.[320] The second is subversive propaganda which is the advocating of civil strife or war within the other state.[321] The third is defamatory propaganda which is "directed against the leaders of the government of the state."[322] Again these actions seem remarkably similar to many of the goals and objectives of PSYOP discussed above.[323]

The effects of the Third Wave can only serve to expand this definition. As the disparity of knowledge grows between the Third Wave societies and those that remain in the First and Second Waves, the Third Wave societies will be increasingly able to powerfully influence actions in the First and Second wave societies without using "armed force"

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[320] THOMAS & THOMAS, *supra* note 288, at 84.

[321] *Id.*

[322] *Id.* at 85. The authors assert that "[d]efamatory propaganda violates customary international law." *Id. citing* J. WHITTON & A. LARSON, PROPAGANDA: TOWARDS A DISARMAMENT IN THE WAR OF WORDS 56 (1963).

[323] *See supra* notes 110-11 and accompanying text discussing the definition of PSYOP; *supra* notes 127-33 and accompanying text discussing the capabilities of PSYOP; and *supra* notes 135-43 and accompanying text discussing the objectives of PSYOP.

in the classical sense. This will cause an outcry among the
societies being influenced. Consequently, the concept of
ideological aggression is likely to expand and become
generally accepted as a necessary means for the
international establishment to try to make fact their goal
of sovereign equality among nations, even though this
equality does not really exist today.[324]

The implications are that a nation must take
information actions advisedly. Technological capabilities
will allow Third Wave societies, like the U.S., to influence
things in other nations more readily than ever before.
Regardless of motive, the recipient of these acts could
consider them aggressive. Characterizing actions as
aggression could give rise to problems in the legal and
political realms of the international community ranging from
condemnation to conflict. Consequently, the U.S. must have

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[324] The principle of sovereign equality is viewed from different
perspectives. Common sense dictates that "in the face of inequalities
among states, equality could only mean equality before the law or equal
application of the law, . . ." LEVI, *supra* note 278, at 89. Despite
this, many states, lawyers, and commentators believe that it should mean
something more. Some insist that it includes "equality in law, i.e.
equal rights and duties of states." *Id.* at 89-90. Of course, in
practice this type of equality is belied by such things as the veto
power the permanent members of the veto power, funding of the UN by
ability to pay, and weighted voting procedures in other international
organizations. *Id.* at 90. Still other states take a more expansive
view of equality. These states, usually less developed, react to the
actual gaps in standard of living by calling for redistribution of
wealth from developed to developing countries. JANIS, *supra* note 286,
at 63-64. These calls for equality in fact can only be exacerbated as
the Third Wave creates even larger gaps between First Wave and Third
Wave societies and new gaps between Second Wave and Third Wave
societies.

the correct people making the decision to act with full
knowledge of the potential consequences.

2.   Domestic Legal Issues

The fundamental legal issue for domestic use of
national power is which portion of America's Constitutional
government needs to order the action and whether any other
branch has to approve. While I recommend executive control,
I also recommend a statute so that the President's authority
is backed up by a congressional enactment. I then recommend
an executive order to consolidate policies that address both
domestic and international legal issues.

a.   The Constitution, War Powers, and
Presidential Authority

The Constitution expressly gives the power to declare
war to the Congress.[325] Of course, the Congress has not done
so since World War II. As veterans of the myriad conflicts
that have occurred since then can attest, and as the silent
markers of their fallen comrades emphasize, this does not
mean that America has not fought. The Constitution further
gives the Congress the express power to raise and support
armies and to make laws governing the conduct of those
armies.[326] Despite this seemingly extensive power to
influence and impact the armed forces, consulting the

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[325] U.S. CONST. art. I, §8, cl. 11.

[326] *Id.*, cl. 12 - 14.

Congress has been an afterthought in the actual use of force in recent times.[327]

The real decision-maker behind the employment of the military has been the President, whose unilateral use of the armed forces is based upon two express powers granted to him. The first is his position as commander in chief of the armed forces.[328] With the advent of the standing army, presidents have viewed this power expansively and used those armies for the purposes they see fit. With regard to using those armed forces in foreign lands, the President relies upon his constitutional authority to conduct foreign affairs.[329]

Dispute exists on both fronts for a similar reason -- the Framers of the Constitution chose to split both powers between the executive and legislative branches to prevent abuses. The Constitution, in a variety of places gives both branches a role in the warmaking power.[330] Similarly, while

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[327] In recent operations, like the Gulf War and Haiti, the President has sought congressional resolutions supporting his actions. However, this does not usually come until the President has at least spoken publicly and put the power and prestige of the United States on the line. More often, troops have already been committed and the Congress ratifies the action more as support for the nation's soldiers than as approval of the use of the forces.

[328] U.S. CONST., art. 2, §2, cl. 1.

[329] Id., art. 2, §2, cl. 2.

[330] Mark T. Uyeda, *Presidential Prerogative Under The Constitution To Deploy U.S. Military Forces In Low-Intensity Conflict*, 44 DUKE L.J. 777, 790 (1995).

the President conducts foreign affairs, the Constitution contemplates a congressional role in that area.[331] This balance has been expressed by one Supreme Court jurist as creating a range of legitimacy for the President's actions.[332] One commentator summarizes this framework as one where

> presidential powers "fluctuate" depending on the actions taken by Congress . . . First, when the President acts pursuant to express or implied congressional authorization, his power is "at its maximum." Second, when the President acts in an area of coextensive power shared with Congress but in the absence of any legislative action, he acts in a "zone of twilight" that may invite the exercise of "independent presidential responsibility." Third, if the President acts in contravention of expressed or implied congressional will, then his power is "at its lowest ebb," and the President may rely only on his Article II authority independent of Congress.[333]

The best position then for executive authority is when the executive acts in concert with the Congress.

This does not mean that the President cannot act unilaterally. Actual practice since World War II has seen

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[331] *Id.* at n. 66. (Discussing the President's power as Commander in Chief (U.S. CONST., art. II, § 2, cl. 1) and to receive ambassadors (*id.* at § 3) as compared to Congress's power to regulate foreign trade (*id.* at art. I, § 8, cls. 3-4) and powers related to the military (*id.* at cls. 1, 11-16).).

[332] Youngstown Sheet & Tube Co. v. Sawyer, 343 U.S. 579, 634 (1952) (Jackson, J., concurring).

[333] Uyeda, *supra* note 330, at 792, *citing Youngstown Steel*, 343 U.S. at 635-38.

such action to pursue a variety of foreign policy and national security objectives.[334] The Congress has fought over the last couple of decades to reclaim a role in this process. The so-called War Powers Resolution[335] has been the major effort. While this statute has not had the impact the Congress sought, it has caused Presidents to seek out the Congress and work for congressional support.[336]

The bottom line to this brief discussion of the internal political structure of the U.S. is that, despite the recent increases in congressional influence, the president still has unilateral authority to use the armed forces in pursuit of national security. Thus, it is the president who bears the responsibility to effectively

[334] Uyeda, *supra* note 330, at 777-78 ("The President has often used military forces for missions that cannot be clearly labeled as war; under such circumstances, military forces have been deployed due to some intrinsic or unique capability, availability, or convenience in order to further U.S. foreign policy."). Mr. Uyeda lists a number of instances since 1987. *Id*. at n.4. Most notable among these were the recent actions in Somalia, Bosnia, and Haiti.

[335] 50 U.S.C. §§ 1541-1548 (1995).

[336] For example, in Operation DESERT SHIELD, President Bush moved naval forces into the region "within one hour of the start of the attack." GULF WAR REPORT, *supra* note 92, at 19. Troops on the ground began deploying on 7 August 1990. *Id*. at 371. The President did not wait for Congressional approval, although he did seek and receive it. *Cf*. Raymond Seitz, *America's Foreign Policy: From the jaws of victory*, THE ECONOMIST, May 27, 1995, at 21 ("Both ends of Pennsylvania Avenue have been tugging on the rope of the War Powers Act for 20 years, and the renewed Republican assault on the president's role as commander-in-chief suggests that the contest is a long way from over. In the half-century of hot war and cold war, the White House usually had the upper hand; but, with national security no longer paramount in Washington, the authority of the presidency is slipping.").

utilize the information assets provided to him, including

PSYOP forces to attain those goals. However, obtaining

Congressional approval maximizes his authority to act.

b.   Are We at War?

The interplay of this system of presidential control

with the concept of ideological aggression makes this

analysis slightly more problematic. If the U.S. uses its

military assets as strategic information assets, and the

acts are found to be "aggression" under international law,

has the President committed us to a war without the required

Congressional declaration?

The realities of the modern world obviate this debate.

The United States has been involved in many actions that

looked an awful lot like war, but that were still considered

(with some dissent of course) to be within the president's

authority.[337] This is because "Congress, consisting of 535

members assisted by huge staffs, is obviously incapable of

swift, decisive, and flexible action in the employment of

armed force, the conduct of foreign policy, and the control

of intelligence operations."[338] Consequently, it is, and

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[337] See Uyeda, supra note 330, at 799-805 (Discussing the constitutional argument for unilateral presidential action and a number of historical cases, court opinions, and commentaries supporting the action.).

[338] W Michael Reisman, Comment: Some Lessons from Iraq: International Law and Democratic Politics, 16 YALE J. INT'L L. 203, 212, quoting Robert Bork, Foreword to THE FETTERED PRESIDENCY: LEGAL CONSTRAINTS ON THE EXECUTIVE BRANCH x (L. Crovitz & J. Rabkin eds. 1989). Professor Reisman asserts that the President must have unilateral authority. He argues that the (Continued on Next Page)

should remain, the president's decision when the U.S. should commit to a course of action that may be considered ideological aggression. Congress still has a role to play in clarifying and determining policy. However, when action is needed, Congress' "fundamental function . . . is to support the executive in ways that send a clear message of national resolve, so unequivocal and unmistakable that international pillagers and those who advise them can have no doubts."[339]

Maintaining this power and authority in the executive is particularly important as the U.S. continues to become a Third Wave society. Technology has made the interactions of Third Wave societies extremely quick and time-sensitive.[340] The president will not always have time to utilize the deliberative process to seek a solution. If he did, the conditions that make information effective may be gone by the time the decision is reached.[341] While this does place substantial unchecked discretion in the executive branch, it is a worthwhile risk. The use of information to resolve foreign policy issues can result in savings measured in

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world situation, which could not have been anticipated by the Framers of the Constitution, dictates this power.

[339] Reisman, *supra* note 338, 209.

[340] TOFFLER, *supra* note 9, at 63 & 79-80 (Discussing accelerated transactions in both economics and warfare.)

[341] *See supra* notes 204 & 217-20 and accompanying text.

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lives and blood. The value of these types of savings

outweighs the danger of abuse by the President. Moreover,

the President can strengthen his position for acting by

seeking a generalized statutory mandate to conduct these

types of operations in advance.

c.   A Proposed Statute

U.S. citizens will most likely have two primary

concerns regarding the routine use of military PSYOP in a

national information strategy. First, they will want

assurance of protection of Americans and their governmental

processes from propaganda.[342] Second, they will want to

ensure that the independent media is not surreptitiously

used in the conduct of these operations.[343] The best method

to address these concerns is through the people's

representatives in the Congress. A proposed statute to

accomplish this is at Appendix A. This solution does

several things.

First, it eases the minds of U.S. citizens whose

support is critical to success.[344] The current "policy"

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[342] *See supra* notes 2 & 109 for quotes regarding concerns about PSYOP.

[343] *Cf.* TOFFLER, *supra* note 9 at 165 ("After the Gulf War a fiery dispute broke out between the American media and the Pentagon over its attempts to manage the news and its deliberate effort to keep reporters away from ground combat.). The Tofflers quote one commentator who theorizes that technology may "'transform reporters from dispassionate observers to unwitting, even unwilling, but nonetheless direct participants' in a war." *Id.* at 172.

[344] *See supra* notes 55-60 and accompanying text.

approach gives little comfort when the very branch of

government that seeks to use and control this power controls

the policy, its interpretation, and enforcement. The

comfort is actually less when the policy is not clear. This

is the case with the current limitation on domestic use of

PSYOP.[345] The policy is not only unclear and not

comprehensive, but it is also not truly explicit. The

statute solves these problems because it sets forth precise

limitations and protections and is made by the people's

representatives to reflect their concerns.

Second, the statutory approach helps to eliminate any

potential misuse of the domestic media by the government.

This fear has caused consistent tension between the press

and the government. For example, following the Persian Gulf

War, the media complained that they were manipulated to

support the military operation.[346] This allegation is

particularly striking since the media appeared to have

excellent access and rapport during the operation.[347] The

statute will help address this concern.

Of course, the expansion of information flow will make

it more difficult to prevent PSYOP messages from being both

picked up by the media and broadcast to the U.S. citizenry.

The benefit to the statutory prohibition is that it forces

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[345] *See supra* notes 223-25 and accompanying text.

[346] *See supra* note 343.

[347] *See* GULF WAR REPORT, *supra* note 92, at 651-55.

planners to design the messages for direction at a foreign

target audience diminishing their efficacy in America, even

if they are unintentionally encountered.[348] The statute also

explicitly prohibits certain types of messages that are most

dangerous to America -- those aimed at political processes,

labor groups, etc. Finally, the statute addresses the best

balance between national security and the first amendment

role of the media. It prohibits the *intentional* misuse of

the media, while not hamstringing U.S. officials charged by

the Constitution with maintaining national security. These

officials should not be held accountable for something they

cannot reasonably control.

Finally, the statute provides another important

benefit. By expressly authorizing Presidential use of

information for foreign policy, the Congress strengthens his

hand when the President unilaterally acts to use information

assets.[349] Not only does this give the executive more

legitimacy domestically, it demonstrates resolve and support

to the nation's adversaries. Consequently, it maximizes the

Presidents position when he decides to use information

power.[350]

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[348] At least one commentator has commented that Americans (soldiers at least) are somewhat impervious to propaganda. *See* Sandler, *supra* note 235, at 25 ("Interestingly, the American serviceman has proved, through the years, to be almost uniquely impervious to the persuasion of his enemies.").

[349] *See supra* notes 330-33 and accompanying text.

[350] *See supra* notes 325-36 and accompanying text.

Statutes are often seen as a limitation and as a drag on efficient and effective use of power. In this case, however, the statute serves to legitimize and empower the use of military information assets. Taking this action is critical to continued success as a nation as the U.S. begins to ride the Third Wave.

d. The Need for a Consolidated Presidential Policy

It is impractical to address every piece of guidance about the employment of PSYOP in a statute. Still, the President needs to control other aspects of this powerful tool. The growing importance of information requires that the President himself take a personal role in formulating limits and guidance about this employment of PSYOP assets.

First, the President and his advisors must ensure that the National Security Strategy incorporates the use of information. They must affirmatively include military PSYOP as a means to obtain the goals the strategy sets out.[351] In the future, "information warfare might not always be a supporting function; in some future campaigns, it might take the leading role."[352] In fact, there are many goals in the current National Security Strategy where information power is the most appropriate tool to use.[353] Ignoring PSYOP as a

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[351] See supra notes 244-60 and accompanying text.

[352] Kraus, supra note 220, at 44.

[353] See supra notes 249-60 and accompanying text.

powerful strategic tool, limiting its applicability to certain types of operations, or failing to use all of the information assets at America's disposal will become a bigger and bigger mistake as the Third Wave continues to impact society.

Second, all guidance should be included in one executive order. The order should be compulsory and provide comprehensive guidance to the operators in the field. If it is necessary to classify portions of the document, it should be released in both a classified and unclassified version.[354] Examples of areas this document should cover are:

- Themes that support the National Security Strategy
- Media acceptable for use and the circumstances for its employment
- Approval authority and Approval process for each type of media
- Roles and responsibilities of the agencies of the executive branch

Additionally, it should give guidance on specific types of information operations that could have international legal implications.

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[354] This is done for many documents, including the National Security Strategy. Many times, the information that requires classification is minimal. Releasing both versions will get maximum guidance to the field while still maintaining security.

3. International Legal Issues

It is beyond the scope of this paper to provide a comprehensive study of the international treaties, conventions, court decisions, and international organization opinions that might be implicated by the strategic use of military PSYOP. However, the following provides a starting point for research and as examples of the broad range of situations that should be covered in the President's Executive Order.

a. UN Charter

As previously mentioned, the Charter specifically seeks to protect the sovereignty of nations, both territorially and politically. American use of information in a way that could involve ideological aggression, must be made in anticipation of difficulties at the UN. While formal actions against U.S. use of information could be blocked by its veto power in the Security Council,[355] political fallout could result that might impact alliances and other agreements or goals. The president should address these concerns in his order and consider what types of information acts would be considered aggressive. He should then construct appropriate guidelines for employment.

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[355] *See* Frederic L. Kirgis, Jr., *The Security Council's First Fifty Years*, 89 Am. J. Int'l L. 506 (1995) (Discussing the formation of the Security Council and its operations over the first 50 years of its existence.).

b. *OAS Charter*

The United Nations is not the only organization whose reactions the U.S. might consider. The charters and agreements of many organizations that the U.S. belongs to limit state behavior. The Organization of American States is one example.[356]

c. *Telecommunications Agreements*

Since the advent of radio, the international community has sought to regulate the use of electronic signals crossing international boundaries.[357] There is currently an international telecommunications commission. Additionally, the United States is party to numerous treaties and conventions that address telecommunications.[358] American use of information assets will clearly implicate many of these agreements. Guidance should thus be given regarding the particular types of media that might fall under these agreements, the circumstances for its use, and any limitations that might be appropriate.

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[356] The OAS Charter limits the use of force in stronger language than the UN Charter. It provides that states may not "intervene, directly or indirectly, for any reason whatever, in the internal or external affairs of any other State. The foregoing principle prohibits not only armed force but also any form of interference or attempted threat against the personality of the State or against its political, economic, and cultural elements." OAS CHARTER, art. 18.

[357] VON GLAHN, *supra* note 281, at 418.

[358] *See id.* at 418-21 discussing the conventions and treaties and State practice under them.

d. Space Treaties

Telecommunications is not the only type of hardware that is subject to international controls. Satellites are subject to the provisions of several treaties.[359] The principal treaty is the so-called Outer Space Treaty which in general terms requires the peaceful use of space.[360] Use of information in pursuit of national security goals might be considered a non-peaceful use. Thus, specific guidelines would have to be formulated to address this area. This is an example of where military PSYOP provides an option. Broadcasting from a fixed location might require satellite relay. Military assets, like Commando Solo, may be able to get into range for information operations without the need for space assets.

e. Law of the Sea

Space is not the only environment governed by special limitations. The United Nations Convention on the Law of the Sea[361] also addresses use of structures on the high seas. One of the specific limitations placed on the use of these

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[359] *See* Anderson, *supra* note 6 and Richard A. Morgan, *Military Use of Commercial Satellites: A New Look at the Outer Space Treaty and Peaceful Purposes*, 60 J. Air L. & Com. 237 (1994) which discuss many of the treaties applicable to the military use of space assets.

[360] Treaty on the Principles Governing the Activities of States in the Exploration and Use of Outer Space, Including the Moon and Other Celestial Bodies, Jan. 27, 1967, 18 U.S.T. 2410, 610 U.N.T.S. 205 (effective Oct. 10, 1967).

[361] United Nations Convention On The Law Of The Sea, *opened for signature* Dec. 10, 1982, 21 I.L.M. 1261.

type of assets is the broadcast of propaganda into another country from these off-shore platforms.[362] This would have to be addressed to fully use the Navy's PSYOP capabilities.

These are but a few examples of the international legal concerns that would need to be addressed in any executive order. The broad range and complex nature of the issues involved in preparing this order are indicative of the use of information assets in general. Consequently, utilizing information power and controlling it effectively will require full time supervision from a leader in the executive branch. This leader will need to integrate agency capabilities and functions, law, policies, and national security interests into a coherent information strategy that uses the variety of information capabilities controlled by the executive branch.

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[362] *Id.* at art. 109, 21 I.L.M. at 1289 ("All States shall co-operate in the suppression of unauthorized broadcasting from the high seas. . . . For the purposes of this Convention, "unauthorized broadcasting" means the transmission of sound radio or television broadcasts from a ship or installation on the high seas intended for reception by the general public contrary to international regulations, but excluding the transmission of distress calls."). The convention includes authority to prosecute violators. *Id.* ("Any person engaged in unauthorized broadcasting may be prosecuted before the court of: (a) the flag State of the ship; (b) the State of registry of the installation; (c) the State of which the person is a national; (d) any State where the transmissions can be received; or (e) any State where authorized radio communication is suffering interference.").

B.   *The Need for a National Leader to Conduct a National
       Coordinated Strategy*

America's increased capability to effectively use

information is a double-edged sword. On the one hand it is

a highly effective tool to achieve national policy

objectives. On the other, the implication of various legal

and political ramifications cautions us to use it wisely.

Military PSYOP has tremendous potential to increase U.S.

strategic information capability. But, involving a military

unit can exacerbate the legal and political concerns just

discussed. Such decisions need to be made at the highest

levels of the government.

Complicating any proposal to use military PSYOP is the

fact that there are more players than the defense department

in the strategic information game. The Central Intelligence

Agency, the U.S. Information Agency, and the State

Department also have roles.[363] Lack of coordination among

these players can complicate the strategic use of PSYOP at

best and destroy its effectiveness through conflicting

messages at worst.[364]

On a broader scale, this principle applies to all of

the elements of national power. Maximizing effectiveness

requires "the integrated and synergistic use of the various

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[363] *See* Kreisel, *supra* note 232, at 56-63 (Laying out all of the players
involved in persuasive communication.).

[364] *See id.* at 58-59; FM 33-1, *supra* note 115 at 3-1.

instruments of power."[365]   The current method to achieve this synergistic use is the interagency process.

As conceived under the current administration, this process begins with a Presidential Review Directive from the National Security Advisor which "defines the scope of the process, identifies interested agencies, and appoints an executive agent or lead agency."[366]   The lead agency is critical because it not only "establishes the coordination process, sets the agenda, drafts policy recommendations, and conducts meetings[,]" but it "also implements decisions unless that responsibility is passed to another organization."[367]   In the midst of the process are Interagency Working Groups made up of action officers who sift information, analyze it, and pass options and recommendations to the Deputies Committee.   This committee "includes relatively senior officials from various departments and agencies" that "can usually make some decisions and . . . agree to proposals affecting their agency or department."[368]   Important decisions are deferred to the principals of the agencies.

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[365] Raach & Kass, *supra* note 239, at 9.   *See also* Jones, *supra* note 232, at 50.

[366] Raach & Kass, *supra* note 239, at 10.

[367] *Id.*

[368] *Id.*

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Several problems are evident from the description of this process. First, "membership in the interagency process . . . varies from crisis to crisis."[369] Thus, expertise and relationships are not developed. This is exacerbated by the second problem, which is the vulnerability of the process to personalities and organizational agendas.[370] Knowing and trusting the critical players in a department can make the difference between success and failure. Moreover, personality problems and differing agendas can distract from the real issues in the crisis. Third, the lead agency may or may not have the expertise to actually perform or oversee the mission, but it has that responsibility decided beforehand.[371]

These procedural weaknesses could cripple a nation in the Third Wave. Everything is time-sensitive and accelerated.[372] Issues are complex, can depend on cultural, language, and political sensitivities in the area of crisis, and have to be resolved quickly. In the opinion of some, "the interagency process is clearly broken." [373] Trusting control of critical information power to this system as it is currently structured is inadvisable.

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[369] *Id.*

[370] *See Id.* at 10-11.

[371] *Id.* at 11.

[372] *See supra* note 340.

[373] Raach & Kass, *supra* note 239, at 13.

The brokenness of this process applies equally to PSYOP. There are at least two committees that seek to coordinate PSYOP. One is the U.S. Advisory Commission on Public Diplomacy.[374] This commission is a group of experts appointed by the president who advise the President, the USIA and Secretary of State about public diplomacy.[375] This committee meets regularly, and recently included a military PSYOP adviser in its agenda.[376] However, this committee is advisory in nature and does not have the access or clout to energize agencies across the executive branch. Moreover, it does not include the defense department in its charter. Thus, its ability to integrate *all* information assets is limited. There is also a Public Diplomacy Coordinating Committee, but in the words of one commentator, this committee needs to be "revitalized."[377] The interagency process is broken. With regard to an overall view of information strategy, it is arguably nonexistent. Revitalizing this area will require the attention of a

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[374] 22 U.S.C. § 1469 (1995).

[375] *Id.*

[376] *See, e.g.,* U.S. Advisory Commission on Public Diplomacy Meeting, 61 Fed. Reg. 6294 (1996) (Announcing a meeting on Feb. 21, 1996); U.S. Advisory Commission on Public Diplomacy Meeting, 61 Fed. Reg. 3525 (1996) (Announcing a meeting on Jan. 31, 1996); U.S. Advisory Commission on Public Diplomacy Meeting, 61 Fed. Reg. 2579 (1996) (Announcing a meeting on Jan. 25, 1996 to be attended by "Col. Daniel C. Deflin, Chief of Psychological Operations and Civil Affairs, The Joint Staff.")

[377] Jones, *supra* note 232, at 49.

single office to coordinate and integrate all information assets of the Executive Branch.

The need for high level approval of PSYOP programs argues for a single office as well. The process should be efficient enough to use in any operation. This eliminates confusion because the process is always the same, regardless of the "state of the environment." In fact, a single process eliminates the need for artificial distinctions, at least for PSYOP purposes, like the "states of the environment" in current doctrine. More importantly, a single approval process allows for expertise to develop and efficiency to be worked in. The result is a process that provides better control with more efficient execution. It is the type of process needed in a Third Wave society.

The best suited official to revitalize the interagency process with regard to information and establish and operate a single, effective approval system in the current U.S. Executive Branch structure is the National Security Advisor. He is unique in the executive branch because of his broad perspective on national security, clout with the President, and bureaucratic neutrality.

C.   *The National Security Advisor as Information Adviser to the President*

The National Security Advisor (NSA) is the President's "senior advisor in the national security field who . . . is

answerable to him [the President] alone."[378]   He also runs

the National Security Council (NSC)[379] staff.   The NSA's

position is uniquely fitted to considering national strategy

from an interagency point of view for several reasons.

First, his staff has expertise in the broad range of

disciplines that fall under national security.   Second, he

is bureaucratically neutral.   Third, he has clout with the

President.   Fourth, he reflects the institutional

perspective of the president.   These characteristics also

suit him to the role of controlling the neglected element of

power, information.

1.   *Staff Expertise*

The NSA has a variety of disciplines represented on the

National Security Council Staff.   Included are personnel

with expertise in the military, intelligence, economics, and

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[378] Carnes Lord, *Strategy and Organization at the National Level, in*
GRAND STRATEGY AND THE DECISIONMAKING PROCESS 141, 156 (J. Gaston ed., 1992).

[379]   The National Security Council is composed of "(1) the President; (2)
the Vice President; (3) the Secretary of State; (4) the Secretary of
Defense; (5) the Director for Mutual Security; (6) the Chairman of the
National Security Resources Board; and (7) The Secretaries and Under
Secretaries of other executive departments and of the military
departments, the Chairman of the Munitions Board, and the Chairman of
the Research and Development Board, when appointed by the President by
and with the advice and consent of the Senate, to serve at his
pleasure."   50 U.S.C. § 402 (1995).   "The function of the Council shall
be to advise the President with respect to the integration of domestic,
foreign, and military policies relating to the national security so as
to enable the military services and the other departments and agencies
of the Government to cooperate more effectively in matters involving the
national security."   *Id.*

diplomacy.[380] It is the most wide ranging staff in the Executive Branch, and it views all of these areas from the perspective of one objective -- the security of the nation. No other office in the executive branch cuts such a wide swath across the disciplines and capabilities of the national establishment. Nor is any other agency so specifically focused on national security.

This broad expertise is critical for control of information power. First, the use of this power is technical in nature requiring some expertise. Second, use of this power must be coordinated with other disciplines to maximize effectiveness.[381] Third, the power spans a number of agencies whose disciplines are represented on the staff.[382] Thus, obstacles, difficulties, and limitations can be anticipated instead of being reacted to during interagency coordination.

2.   *Bureaucratic Neutrality*

Another major advantage that the NSA has is his independence from the various agencies that control information assets.[383] He does not have any institutional

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[380] *See* Lord, *supra* note 378, at 144.

[381] *See supra* note 364.

[382] *See supra* note 380.

[383] The NSA does not control any information assets. All of the assets are controlled by other agencies within the executive branch. *See supra* note 363.

biases that might cause him to promote a given course of action simply because it will "glorify" his agency.[384] In making decisions regarding the strategic uses of information, and particularly PSYOP, the President "must be presented with options that reflect genuine strategic choices rather than options refracted through institutional preferences of the national security agencies."[385] This allows the President to view the situation as a whole and utilize the various instruments of national power that he has at his disposal effectively to address the situation. The independence of the NSA and his broad interagency perspective make him best suited to advise the President regarding these choices.

This is not to say that other agencies should not participate. On the contrary, the other agencies control the assets needed to perform the mission. However, the NSA should form the strategy and assign operations to the particular agency best suited to handle that mission. The agency would then be tasked to prepare the operational plan to actually implement the strategy. This planning could be done using an interagency committee or some other format the NSA may prefer. The critical element is that the strategy will be formulated based on what is best for the nation, not what is best for some particular agency.

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[384] *See* Lord, *supra* note 378, at 144-45.

[385] *Id.* at 145.

3. Clout

The NSA has clout with the commander in chief. As an advisor personally appointed by and accountable to the President, the NSA is normally in the President's inner circle.[386] This gives him the ability to directly access the President and obtain decisions and backing when needed. Access to the President is critical because proper conduct of information campaigns will involve multiple agencies of the executive. The NSA's direct relationship with the President enables him to compel agencies to participate in accordance with the decisions made by the President, even when it requires downplaying or sacrificing the role or prestige of one agency in favor of another.

4. The Institutional Perspective of the Presidency

A national strategy must reflect "the institutional perspective of the presidency rather than that of any specific executive agency."[387] This perspective is by necessity broad, interdisciplinary, and interagency because it reflects the enormous responsibilities of the highest office in the United States. It also reflects the unique position of the United States as a leader in the free world because it is the President that must represent the nation

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[386] See id. at 144-45.

[387] Id. at 145.

in that role.[388]   No single agency has this perspective.

They are beholden to the president for a particular area of

his responsibility.   The NSA can look from the broad

perspective of the president and determine which assets and

which agency can best serve the particular national security

needs of the time.   This allows not only interagency

coordination of information, but allows information to

support the uses of other elements of power that might be

occurring simultaneously.

The NSA already provides this broad, national security

perspective to a number of committees, including some that

affect the distribution and use of information.   For

example, he is a member of the telecommunications oversight

committee and works with the interagency committee that is

looking at computers and their use and protection.[389]   The

NSA's perspective is needed to lead in the use of

information entering the Third Wave.   Expansion of his role

in controlling the power of U.S. information assets is a

logical choice.

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[388] *See* Uyeda, *supra* note 330, at 800-01 ("The notion of the President as
the principal agent of the country in foreign relations finds support in
several Supreme Court opinions.").   Mr. Uyeda goes on to discuss several
opinions including *United States v. Curtiss-Wright Export Corp.*, 299
U.S. 304 (1936) and *Youngstown Sheet & Tube Co. v. Sawyer*, 343 U.S. 579
(1952).

[389] *See, e.g.*, National Security and Emergency Preparedness Planning and
Execution, 47 C.F.R. § 202.3 (1995) (Assigning various responsibilities
to the NSA for the development of policy plans and programs regarding
the use of the "Nation's telecommunications resources" in wartime and
non-wartime emergencies.).

Making the true strategic use of PSYOP acceptable to the American people raises issues of control. These issues can be effectively addressed through legislative and executive action to formalize rules and policies. The assets can then be effectively integrated and controlled through the oversight of the National Security Advisor. True utility, however, requires an additional step. The Army must make force structure changes so that the needed forces are available, ready, and properly positioned for quick response to national security needs.

VI.   The Utility of Persuasion: The Need for Decentralized Execution

PSYOP units possess unique capabilities to facilitate the use of information at the strategic level. However, the current force structure makes the feasibility of additional missions for active component forces doubtful. Additionally, the placement of the forces within the Army's organizational structure limits their utility. In this section, I propose restructuring PSYOP forces both internally and in their location within the Army's structure. Doing so will not only enable the strategic use of these forces, but will enhance the efficiency and effectiveness of their control.

A.   *Formation of Regional PSYOP "Groups"*

The Army should form an active component PSYOP "group" to support each Regional CINC. In these days of drawdown,

this type of suggestion is probably met with a great deal of skepticism. However, the actual increase in force structure is very modest, especially compared with the capability gained. Additionally, concomitant reductions in the reserve component could be made, if necessary, in order to simply change the mix of PSYOP forces as opposed to increasing them.[390] Either way, the need as the U.S. continues to ride the Third Wave is for a PSYOP force that is totally focused on a particular region, fully capable of supporting PSYOP missions at all levels, including strategic, and consistently available to the CINCs. Formation of these regionalized "groups" is the first step toward accomplishing this goal.

The term "group" is in quotations intentionally. I recommend a new structure for these regionalized groups. While the Group I envision would have similar capabilities to the single active component Group the Army currently has,[391] it would have a reduced number of personnel for each function. It is beyond the scope of this paper to propose specific numbers of personnel and military occupation specialty breakdowns. However, I will address the approximate sizes and functions to be performed.

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[390] Rethinking the mix of active and reserve component forces was recommended by DOD in 1992. GULF WAR REPORT, *supra* note 92, at 538.

[391] *See supra* notes 145-82 and accompanying text.

I maintain the "group" terminology, despite the smaller size, to remain consistent with other special operations organizations. Additionally, this label emphasizes a critical point -- the grade of commander must be commensurate with the label, rather than the size of the forces. The PSYOP Group Commander must be a critical player on the CINC's staff. As such, he must be of sufficient rank to warrant the CINC's confidence. The component commanders are all of flag rank as are the primary staff.[392] Therefore, an O6 commander is essential to maintain credibility and position on the staff.

The current PSYOP group structure has approximately 1100 people.[393] The group I envision would have approximately half that number or about 550 personnel. Thus, the Army can provide the capability to conduct PSYOP directly to the CINCs with about two and one-half times the number of personnel in the current structure.

This new group structure would be broken down into 4 sub-units. The first would be a headquarters element of about 50 people. This would include the command and staff structure as well as administrative and support personnel and equipment. The other three sub-units would be called "battalions." This label is used for similar reasons to those justifying the use of "group" for the overall unit.

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[392] JOINT GUIDE, *supra* note 192, at 2-27- 2-36.

[393] *See supra* notes 146-48 and accompanying text.

Each battalion would have an O5 commander. These battalions would mirror the capabilities of the current PSYOP group.[394]

The first battalion would be a Regional Support Battalion. This unit would contain civilian analysts to study the CINC's region and Product Development Cells to conduct PSYOP planning and product development.[395] This unit would consist of approximately 100 personnel. The second battalion would be a Tactical Support Battalion consisting of a number of operational detachments to conduct Tactical PSYOP in support of the CINC's missions.[396] This unit would also have about 100 personnel. The final battalion would be the PSYOP Dissemination Battalion (PDB). This unit would have signal, broadcast, and print capabilities similar to the current PDB.[397] It would consist of about 250 personnel and requisite equipment. This unit gives the CINC organic capability to produce his own PSYOP products.[398]

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[394] *See supra* notes 149-58 and accompanying text.

[395] *See supra* notes 149-52 and accompanying text.

[396] *See supra* notes 156-58 and accompanying text.

[397] *See supra* notes 154-55 & 172-78 and accompanying text.

[398] As a cost-saving measure, it may be necessary to only provide this unit with "light" print capability. *See supra* note 172 and accompanying text. The most feasible solution may be to maintain the 4th PSYOP Group's media production center as a joint asset under CINC, USSOCOM for production of major quantities of print material. The CINCs would still have their organic "light" capability to produce sufficient quantities to conduct at least limited operations until the "heavy" support is provided.

The result of this restructuring would be a manifest improvement in the integration, availability, and execution of PSYOP. Additionally, it would make the strategic use of these assets feasible. The final critical links, however, are to collocate the units with the Regional CINCs and to give the Regional CINC Operational Control (OPCON)[399] over these forces.

B. Give OPCON to the Regional CINCs

The current method for supporting regional CINCs is discussed above.[400] This system relies on the PSYOP staff officers assigned to the CINC's command and the forward detachments that the 4th PSYOP Group has sacrificed from its own ranks to provide. Despite these efforts, implementation of any PSYOP Campaign plans require forces beyond the CINCs control. These forces are within the command of CINC, USSOCOM, a separate 4-star CINC, with additional flag officer layers of command below him.[401] While CINC, USSOCOM is committed by doctrine to support the Regional CINC, it is his decision, not the Regional CINC's, as to who gets

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[399] Operational control (OPCON) is defined as "Transferable command authority that may be exercised by commanders at any echelon at or below the level of combatant command. . . . [It] includes authoritative direction over all aspects of military operations and joint training necessary to accomplish missions assigned to the command." DOD DICTIONARY, *supra* note 203, at 274.

[400] *See supra* notes 195-204 and accompanying text.

[401] *See supra* notes 159-62 and accompanying text. *See also supra* Figure 2.

priority for PSYOP assets. This tends to devalue the PSYOP

forces in the eyes of the Regional CINC who will prefer

options that utilize forces he has combatant command over.

There are certain advantages to the centralized command of

CINC, USSOCOM that dictate the maintenance of that

relationship. However, the need for effective execution

dictates operational control of units where they will

actually operate.

1.   *Maintain Centralized Command in CINC, USSOCOM*

CINC, USSOCOM, by statute, performs many functions that

other CINCs do not. He is responsible for special

operations strategy, doctrine and tactics; funding of

special operations specific equipment and supplies; formal

courses of instruction for training special operations

forces (including officers and noncommissioned officers

schools); and monitoring promotions of special operations

force officers.[402] Because of these far-reaching

responsibilities, CINC, USSOCOM has a broad range of

expertise in his headquarters specifically focused on the

unique needs of special operations forces, including PSYOP.

It would not make sense to attempt to duplicate this role in

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[402] 10 U.S.C. § 167(e)(2). In conventional forces, most of these
activities are conducted by other agencies within the service
department. For example, in the Army, formal school training is
normally the responsibility of the Training and Doctrine Command, not
the combat units.

five different Regional CINC headquarters, and statutorily it belongs to CINC, USSOCOM anyway.

CINC, USSOCOM also has access to specialized funding programs that other CINCs do not have. For example, special operations training funds allow the training of foreign nation forces for the primary benefit of U.S. forces practicing their skills as trainers.[403] It makes sense to maintain access to these opportunities for greatest flexibility in options for conducting the PSYOP mission.

Perhaps most important, a detached relationship is specifically contemplated in the code section establishing the combatant command of CINC, USSOCOM. The CINC is specifically tasked to "monitor[] the preparedness to carry out assigned missions of special operations forces *assigned to unified combatant commands other than the special operations command.*"[404] Thus, it is envisioned that CINC, USSOCOM will have a role that takes advantage of his unique expertise, while having forces located and under control of the Regional CINCs. Establishing this relationship is critical to utilizing military PSYOP at the strategic level.

2. OPCON to CINCs

Giving OPCON to the CINC puts military PSYOP on his team. It provides a number of advantages, all of which

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[403] 10 U.S.C. § 2011 (Supp. 1995).

[404] 10 U.S.C. § 167(e)(3)(B) (Supp. 1995).

equate to a powerful asset that the CINC can rely on to accomplish his mission. Creating this relationship with a group under the revised structure, collocated with the CINC will improve integration of PSYOP at the military level. More importantly, it will place an asset with the CINC that will enable the NSA to task strategic information missions to him when they fall within the CINC's region of responsibility.

a. *Simplify Flow of Approval*

First, and foremost, the new OPCON relationship simplifies the flow of the approval process. As currently structured, the process involves two chains of command.[405] While the CINC under the current system is responsible for the approval of the campaign called for under his plans, the executing unit will be coming from an entirely different chain of command. Thus the utilization of resources, the flow of the products, the type of products, the resources committed, and the flow of the approval and limitations travel in at least two paths, rather than one. The dangers of this duplicity are those inherent in any communication -- the more people the message flows through, the greater the chance of error.

The new system would simplify and shorten the path for approval and communication of limitations. The proposed

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[405] *See supra* notes 205-19 and accompanying text.

plan would flow directly from the Regional CINC's PSYOP

Group Commander (the same commander who would be executing

the plan), through the CINC, the Joint Chiefs of Staff, and

Secretary of Defense, to the National Security Council.[406]

The NSA would then shepherd the proposal through any

interagency coordination required.[407] The proposal would

return by the same route, directly to the executing unit.

One process should apply to ALL actions, regardless of which

"state of the environment" exists. By establishing a

single, simpler process, those involved will gain experience

and can work efficiencies into the system. At least in the

long term, this process should help to ensure that

processing of plans is consistently expeditious and that

concerns or limitations placed by the National Command

Authority are accurately passed to the executing CINC and

PSYOP Commander.

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[406] The plan is set forth in general terms. Exactly which staff officer
handles the mater would be worked out by each agency. However, I
recommend that no more than one person handle the matter in each agency.
Additionally, the same person should handle it each time so as to
develop familiarity and expertise. Finally, the staff member who
handles the matter should be on the principal staff of the agency, not
an assistant staff member. This will ensure that the matter gets the
attention it deserves.

[407] As the President's information advisor, the NSA would know what
coordination, if any, would need to be done because he would be familiar
with all of the national security operations occurring in the region,
including information operations. *See* section V *supra*.

b. Ensure That PSYOP Fit into Regional and National Strategies

A dedicated PSYOP commander in the CINC's area of operations provides him an invaluable tool to incorporating information power into his regional strategy.[408] This provides a local check to ensure that the PSYOP plan fits the CINC's overall strategy. Additionally, another valuable check is provided by employing the NSA as the information advisor. His involvement provides a "big picture" check which ensures that the activity fits into the overall national security strategy of the nation for that region. Moreover, regional presence of military PSYOP gives the NSA another asset that he can readily use to conduct information operations in support of strategic objectives. The fact that the Regional CINC has PSYOP assets directly at his disposal would allow the NSA to assign that CINC strategic information missions through the Secretary of Defense and Chairman of the Joint Chiefs of Staff. These assets would already be focused on the region, aware of regional vulnerabilities, and have assets on the ground ready to perform the mission in a manner that meets the compressed time constraints of the Third Wave. Moreover, it would cost less to utilize these assets because of the shorter logistic lines to the regional mission location.

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[408] Colonel Jeffrey B. Jones, former commander of the 4th PSYOP Group has advocated such incorporation for a number of years. *See* Jones, *supra* note 232.

c. *Supports the Increased Power to CINCs*

Finally, these changes are in fitting with the trend, both in Congress and in commentary, calling for increasing the power of the Regional CINCs. The Goldwater-Nichols reorganization in 1986 focused on this as a means to ensure joint, efficient defense.[409] Commentators and the CINCs themselves have called for increased authority.[410] Some commentators have also called upon CINCs to use innovative methods to make U.S. influence felt in their regions.[411] Collocating PSYOP assets supports all of these goals while it strengthens America's position as an information power.

These benefits underscore the improvements in both execution and control that would derive from regionalized PSYOP Groups, collocated with the Regional CINC's, and under their operational control.[412] These changes enhance

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[409] *See supra* note 188 and accompanying text.

[410] *See, e.g.,* Joyce Endoso, *Commanders-In-Chief Need A Voice In It Plans, Study Says; Defense Science Board Report,* GOV'T COMPUTER NEWS, Jan. 23, 1995, at 50; *CINCs Suggest New Responsibilities for Unified Commands,* DEF. DAILY, Sep. 19, 1994, at 55; *Ashy Wants "Space" For Warfighters; Gen. Joseph Ashy Comments At Senate Confirmation Hearing; Theater Commander Control Over Space Assets,* DEF. & AEROSPACE ELECTRONICS, July 25, 1994, at 4.

[411] *See, e.g.,* Tanya Bielski, *Commission: CINCs Should Test New Approaches For Presence,* DEF. DAILY, May 25, 1995, at 285.

[412] One potential objection to these changes is that this type of relationship does not fit the current model for support by other types of Special Operations Forces. This is not an issue regarding my proposals, however, because PSYOP is handled differently now.

Each regional CINC has been assigned a Special Operations Command (SOCOM) which is now commanded by a flag officer. Support is arranged through this regional SOCOM, with the regional SOCOM commander generally commanding any support forces provided to the CINC. PSYOP forces'
(Continued on Next Page)

execution and control by making strategic use of military PSYOP both feasible and acceptable.

VII.   Conclusion

The Third Wave is pushing our society into the information age. This change is revolutionizing America and its military. It also presents tremendous opportunities to the nation. The ideological nature of conflict and the power of perception to impact ideology underscore the benefits that will accrue to those nations who harness the power of information. To enhance this capability in the United States, America must truly see information as an element of its national power and utilize all of the assets that it has to conduct information operations at the strategic level. This includes military PSYOP.

To utilize military PSYOP strategically requires changes in its control and execution. Effective and

(Continued)

"requirement to be fully integrated with interagency activities, . . . as well as with conventional forces, command and control warfare, and information warfare" dictate a separate command structure. Letter from Colonel Jeffrey B. Jones, Joint Staff, Department of Defense, to Editor, *Joint Force Quarterly, reprinted in Letters . . .*, JOINT FORCE Q., Autumn 1995, at 7. Thus, planning is currently conducted by Regional CINC J3s supported by their PSYOP staff officer. *Id.* In crisis, a Joint Force PSYOP Component Command (JFPOCC) is formed to control PSYOP support. *Id.* My proposal simply creates what is in essence a standing JFPOCC and transfers all planning and control functions to him.

Additionally, collocating the forces is similar to the forward presence provided in several of the Special Forces Groups. These forces have Battalions forward-deployed in at least SOUTHCOM, EUCOM, and PACOM. Consequently, forward-deploying PSYOP forces is really not a change to the way special operations support is given.

efficient control requires two major changes. First, policies and limitations must be clarified and formalized in statute and in policy directives from the executive. This will ensure clear guidance to the operators in the field and enhance the confidence of our citizenry in the routine use of PSYOP. Second, control must be centralized under a single department of the executive. I recommend the National Security Advisor because of his staff's broad expertise, his clout with the President, his bureaucratic independence, and his broad institutional perspective. This centralization will make for effective integration of military PSYOP into the overall strategy pursuing U.S. national security objectives. It will also serve to present the President true strategic alternatives for the use of information power.

Military PSYOP already have the expertise to execute PSYOP strategically. However, the limited assets available make these additional missions unfeasible. The Army should make two force structure changes to address this issue. First, form an active component regional PSYOP "group" for each Regional CINC. These "groups" would be about half the size of the current active component group, but maintain a similar array of capabilities. These groups should be collocated with the CINC.

Second, the groups should remain under the centralized command of CINC, USSOCOM, but should be under the operational control (OPCON) of the CINCs. These changes

simplify command lines and the flow of approval processes
and policy limitations between the National Command
Authority and the executing PSYOP unit. Additionally, they
will place military PSYOP in position to be effectively
utilized to pursue national security objectives, with or
without an underlying military operation to support.

The speed and complexity of the Third Wave requires
that nations anticipate problems, identify solutions, and
implement them quickly. The changes I propose do just that.
The protection of American national security interests in
the future will rely heavily on leveraging information. We
cannot afford to ignore one of the nation's most versatile
and powerful information assets. Consequently, the nation
must move now to complete the revitalization of military
PSYOP it began in the 1980s. America must enact the truly
strategic vision of military PSYOP in a way that is
acceptable to its citizens and feasible for its forces.
Doing so will place this great nation well on the path
toward information superiority. In the trisected world that
will exist after the Third Wave crashes, information
superiority will be the only means of assuring that we
remain a secure superpower.

Suggested PSYOP Statute

10 U.S.C. § 167a   The Conduct of Psychological Operations

   (a) DEFINITIONS:

      (1) "Psychological Operations", as used in this section, means planned operations to convey selected information and indicators to particular audiences to influence their emotions, motives, objective reasoning, and ultimately the behavior of organizations, groups, and individuals within that audience.

      (2) "Disaster Relief", has the same meaning as it does in Title 42 of this code.

      (3) "Foreign Audience", as used in this section, means an individual or group, selected as a target audience for psychological operations, who is not --

         (A) affiliated with any local, state, or national governmental entity of the United States; OR
         (B) the governing body of any labor organization, professional association, lobby organization, or other organization that represents the interests of United States Citizens before any local, state, or national governmental entity of the United States; OR
         (C) a political party of the United States or subdivision thereof; OR
         (D) a "United States Person."

      (4) "Domestic Audience", as used in this section, means an individual or group, selected as a target audience for psychological operations, who is --

         (A) not a "foreign audience" as defined in this section; OR
         (B) is a "United States Person."

      (5) "United States Person,"[+] as used in this section means:

         (A) A United States citizen;

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(B) An alien known by the agency conducting the psychological operations to be a permanent resident alien;

(C) An unincorporated association substantially composed of United States citizens or permanent resident aliens;

(D) A corporation incorporated in the United States, except for a corporation directed and controlled by a foreign government or governments. A corporate or corporate subsidiary incorporated abroad, even if partially or wholly owned by a corporation incorporated in the United States, is not a United States person.

A person or organization outside the United States shall be presumed not to be a United States person unless specific information to the contrary is obtained. An alien in the United States shall be presumed not to be a United States person unless specific information to the contrary is obtained.

(b) FOREIGN AUDIENCES:

(1) Under regulations and policies prescribed by the President, agencies of the executive branch, to include assets of the Department of Defense, may carry out psychological operations directed toward foreign audiences if the President --

(A) believes that the operations will promote the national security interests of the United States; AND

(B) the psychological operations will be conducted outside the United States and its territories.

(2) Psychological Operations carried out under this section shall complement, and may not duplicate, any other form of information operation conducted in support of the national security of the United States.

(3) The President shall appoint a member of his personal staff to coordinate all information activities conducted under this section.

(4) The President shall submit to Congress, no later than 1 December of each year, a report detailing all of the information activities conducted under this section during the prior fiscal year.

(c) DOMESTIC AUDIENCES:

(1) Psychological operations shall not be conducted against domestic audiences under any circumstances.

(2) Agencies, including the Department of Defense, that are capable of conducting psychological operations may only provide information to domestic audiences in the following circumstances:

(A) Domestic Disaster relief is requested under Title 42, Chapter 68 of this code; AND
(B) The governor of the state or territory specifically requests media assets to disseminate information; AND
(C) The agencies involved disseminate information as dictated by disaster relief officials without any effort to influence the message or the audience in any fashion.

(d) MEDIA: Under no circumstances will information or actions that are part of a psychological operation be intentionally or knowingly distributed through the open media sources of the United States.

(e) PENALTIES: Violation of this statute shall be punished criminally with a maximum punishment of confinement for one year and a fine not to exceed $5,000. Additionally, individuals who knowingly order, approve, or conduct operations by subsection (b) above shall be acting outside the scope of their employment and will be subject to individual civil liability.

(f) Nothing in this section shall be interpreted to preclude:

(1) the conduct of information dissemination missions directed toward foreign audiences; OR

(2) the conduct of notional psychological operations at training centers within the United States and its territories for the purpose of readiness.

(g) This section does not apply to the unintentional receipt of a psychological operations product or message by a member of a domestic audience through international media such as the INTERNET.

[+] This definition is taken virtually verbatim from DEP'T OF ARMY, ARMY REGULATION 381-10, U.S. ARMY INTELLIGENCE ACTIVITIES A-4 - A-4 (1 July 1984).